



## Order under Section 78(6) Residential Tenancies Act, 2006

**Citation:** 2071417 Ontario Inc v Wishart, 2023 ONLTB 42314

**Date:** 2023-06-12

**File Number:** LTB-L-005641-23

**In the matter of:** F, 6530 Glen Erin Drive  
Mississauga Ontario L5N3S3

**Between:** 2071417 Ontario Inc Landlord

**And**

Kenton Basso and Simmone Wishart Tenants

2071417 Ontario Inc (the 'Landlord') applied for an order to terminate the tenancy and evict Kenton Basso and Simmone Wishart (the 'Tenants') and for an order to have the Tenant pay the rent they owe because the Tenant did not meet a condition specified in the order issued by the LTB on August 29, 2022 with respect to application CEL-04938-22-SA.

This application was heard by videoconference April 11, 2023. The Tenant, Kenton Basso, attended the hearing. The Landlord was represented at the hearing by Faraz Damji.

### Determinations:

1. The order provides that the Landlord can apply to the LTB under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') without notice to the Tenant to terminate the tenancy and evict the Tenant if the Tenant does not meet certain condition(s) in the order. This application was filed within 30 days of the breach.
2. The Tenant acknowledged he did not pay the rent that was due December 01, 2022.

I find that the Tenants have not met the following conditions specified in the order:

- The Tenants did not pay the rent due December 01, 2022, in full and on time.
3. The previous application includes a request for an order for the payment of arrears of rent and the order requires the Tenants to make payments by specific due dates. Accordingly, in addition to eviction, the Landlord is entitled to request an order for the payment of arrears owing.
  4. The Tenants were required to pay \$11,873.86 for rent arrears and the application filing fee in the previous order. The amount that is still owing from that order is \$10,554.54 and that amount is included in this order. **This order replaces order CEL-04938-22-SA.**

5. Since the date of the previous order, the Tenants have failed to pay the full rent that became owing for the period from November 1, 2022, to December 31, 2022.
6. Since the application was filed the Tenants have paid \$4,000.00 toward the rent arrears.

#### *Relief from Eviction*

7. According to s. 83 of the Act when the Board hears an application for an order evicting a tenant, the Board must consider whether there are any circumstances that support granting relief from eviction.
8. The Tenant lost his job in October 2023. He has since found new employment. He makes \$25.00 per hour.
9. The Difficulty for the Tenants is they have breached multiple payment arrangements. The Tenants have been in arrears since 2019 and the arrears are quite substantial. The Tenants have not paid rent in full since the application was filed.
10. Based on the Tenants' inconsistent payment history and longstanding history of arrears, I find it would be unfair to grant the Tenants any further relief from eviction.

#### *Last Month's Rent Deposit*

11. The Landlord collected a rent deposit of \$1,757.81 from the Tenant and this deposit is still being held by the Landlord.
12. Interest on the rent deposit is owing to the Tenants for the period from January 1, 2023, to June 12, 2023.
13. The amount of the rent deposit and interest on the rent deposit is applied to the amount the Tenants required to pay.

#### *Daily Compensation*

14. The Landlord is entitled to daily compensation from the day after this order is issued to the date the Tenant moves out of the unit at a daily rate of \$55.04. This amount is calculated as follows: \$1,674.11 x 12, divided by 365 days.

#### **It is ordered that:**

1. **Order CEL-04938-22-SA is cancelled.**
2. The tenancy between the Landlord and the Tenants is terminated. The Tenants must move out of the rental unit on or before June 23, 2023.
3. If the unit is not vacated on or before June 23, 2023, then starting June 24, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
4. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord on or after June 24, 2023.

5. The Tenants shall pay to the Landlord \$17,149.88\*. This amount represents the rent owing up to June 12, 2023, less the rent deposit and interest the Landlord owes on the rent deposit.
6. The Tenants shall pay to the Landlord \$55.04 per day for compensation for the use of the unit starting June 13, 2023, to the date the Tenant moves out of the unit.
7. If the Tenant does not pay the Landlord the full amount owing on or before June 23, 2023, the Tenant will start to owe interest. This will be a simple interest calculated from June 24, 2023, at 6.00% annually on the balance outstanding.

**June 12, 2023**  
**Date Issued**

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**Bryan Delorenzi**  
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor,  
Toronto ON M7A 2G6

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.

In accordance with section 81 of the Act, the part of this order relating to the eviction expires on December 24, 2023 if the order has not been filed on or before this date with the Court Enforcement Office (Sheriff) that has territorial jurisdiction where the rental unit is located.

\* Refer to the attached Summary of Calculations.

**Summary of Calculation****Amount the Tenant must pay the Landlord:**

<b>Reason for amount owing</b>	<b>Period</b>	<b>Amount</b>
Amount owing from previous order	Up to August 31, 2022	\$10,554.54
New Arrears	November 1, 2022, to June 12, 2023	\$12,353.15
Less payments made since the application was filed	December 21, 2022, to April 11, 2023	-\$4,000.00
Less the rent deposit and interest:	January 01, 2023, to June 12, 2023	-\$1,757.81
Plus daily compensation owing for each day of occupation starting June 13, 2023		\$55.04 (per day)
<b>Total the Tenant must pay the Landlord:</b>		<b>\$17,149.88 +\$55.04 per day starting June 13, 2023</b>

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