



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

Citation: Lombart v Austin, 2023 ONLTB 42479

Date: 2023-06-06

File Number: LTB-L-001183-23

In the matter of: 72, 1 HEMLO DR
MARATHON ON P0T2E0

Between: Pavel Lombart Landlord

And

Joanne Austin Tenant

Pavel Lombart (the 'Landlord') applied for an order to terminate the tenancy and evict Joanne Austin (the 'Tenant') 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 November 30, 2022 with respect to application LTB-L-019177-22.

This application was heard by videoconference on April 11, 2023. The Landlord attended the hearing. The Tenant was represented at the hearing by Miriam Mcutshison.

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's representative acknowledged the Tenant paid the rent that was due January 01, 2023, on January 23, 2023. The Tenant has not paid rent owing for the period February 01, 2023, to April 30, 2023.

3. The Tenant's representative acknowledged the Tenant has not paid the arrears payments that were due February 28, 2023, and March 28, 2023.
4. I find that the Tenant has not met the following conditions specified in the order:
 - The Tenant did not pay rent in full and on time between January 01, 2023, to April 31, 2023
 - The Tenant did not make payments toward the rent arrears as required on February 28, 2023, and March 28, 2023.

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5. The previous application includes a request for an order for the payment of arrears of rent and the order requires the Tenant 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.
6. The Tenant was required to pay \$3,786.00 for rent arrears and the application filing fee in the previous order. The amount that is still owing from that order is \$2,530.00 and that amount is included in this order. **This order replaces order LTB-L-019177-22.**
7. Since the date of the previous order, the Tenant has failed to pay the full rent that became owing for the period from January 1, 2023, to April 30, 2023. The rent owing for this period is \$1,350.00.
8. The total arrears the Tenant owes the Landlord are \$3,880.00

Section 83 Considerations

9. The Tenant does dispute the amount of rent arrears. The issue before the Board is whether it is appropriate to grant relief from eviction pursuant to s.83 of the Act.
10. 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.
11. The Tenant proposed to continue the payment plan month toward the rent arrears. The Landlord does not believe the Tenant will be able to comply with the requested payment plan.
12. I find that it would not be unfair to grant the Tenant's request. The Tenant is employed and the rent arrears are manageable. While I share some of the Landlord's concerns the Tenant's payment plan seems realistic and not unduly lengthy.

It is ordered that:

1. **Order LTB-L-019177-22 is cancelled.**
2. The Tenant shall pay to the Landlord \$3,880.00, which represents the arrears of rent outstanding for the period ending April 30, 2023.
3. The Landlord's application for eviction is denied on the condition Tenant shall pay to the Landlord the amount set out in paragraph 2 in accordance with the following schedule:

Date Payment Due	Payment Amount
The 28 th day of the month commencing July 28, 2023 and ending June 28, 2025	\$157.00
July 28, 2025	\$112.00

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4. The Tenant shall pay rent for the period of May 01, 2023, to June 30, 2023, (\$900) on or before June 28, 2023.
5. The Tenant shall also pay to the Landlord new rent on time and in full as it comes due and owing for the period July 01, 2023, to July 31, 2025, or until the arrears are paid in full, whichever date is earliest.
6. If the Tenant fails to make any one of the payments in accordance with this order, the outstanding balance of any arrears of rent and costs to be paid by the Tenant to the Landlord pursuant to paragraph 1 of this order shall become immediately due and owing and the Landlord may, without notice to the Tenant, apply to the LTB within 30 days of the Tenant's breach pursuant to section 78 of the Act for an order terminating the tenancy and evicting the Tenant and requiring that the Tenant pay any new arrears, NSF fees and related charges that became owing after April 30, 2023.

June 6, 2023

Date Issued

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

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