



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

**Citation:** Lu lin Wang v Tracy Clarke, 2023 ONLTB 40015

**Date:** 2023-06-01

**File Number:** LTB-L-037084-23

**In the matter of:** 254 NIAGARA TRAIL  
GEORGETOWN ON L7G0M4

**Between:** Dai R. Wu Landlords  
Lu lin Wang

**And**

Brian Brooks Tenants  
Tracy Clarke

Dai R. Wu and Lu lin Wang (the 'Landlords') applied for an order to terminate the tenancy and evict Brian Brooks and Tracy Clarke (the 'Tenants') and for an order to have the Tenants pay the rent they owe because the Tenants did not meet a condition specified in the order issued by the LTB on May 1, 2023 with respect to application LTB-L-057852-22.

This application was decided without a hearing being held.

**Determinations:**

1. The order provides that the Landlords can apply to the LTB under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') without notice to the Tenants to terminate the tenancy and evict the Tenants if the Tenants do not meet certain condition(s) in the order. This application was filed within 30 days of the breach.
2. I find that the Tenants have not met the following condition specified in the order: **Further, the Tenants failed to pay \$10,000 towards arrears, on or before May 5, 2023.**
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 Landlords are entitled to request an order for the payment of arrears owing.

4. The Tenants were required to pay \$24,580.00 for rent arrears and the application filing fee in the previous order. The amount that is still owing from that order is \$24,580.00 and that amount is included in this order.
5. The Landlords collected a rent deposit of \$3,800.00 from the Tenants and this deposit is still being held by the Landlords.
6. Interest on the rent deposit is owing to the Tenants for the period from April 25, 2022 to June 1, 2023.
7. The amount of the rent deposit and interest on the rent deposit is applied to the amount the Tenants are required to pay.
8. The Landlords are entitled to daily compensation from the day after this order is issued to the date the Tenants move out of the unit at a daily rate of \$124.93. This amount is calculated as follows: \$3,800.00 x 12, divided by 365 days.

**It is ordered that:**

1. Order LTB-L-057852-22 is cancelled.
2. The tenancy between the Landlords and the Tenants is terminated. The Tenants must move out of the rental unit on or before June 12, 2023.
3. If the unit is not vacated on or before June 12, 2023, then starting June 13, 2023, the Landlords 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 Landlords on or after June 13, 2023.
5. The Tenants shall pay to the Landlords \$21,260.89\* (**Less any payments made by the Tenants after this application was filed on May 8, 2023**). This amount represents the rent owing up to June 1, 2023 and the cost of filing the previous application, less the rent deposit and interest the Landlords owe on the rent deposit.
6. The Tenants shall also pay to the Landlords \$124.93 per day for compensation for the use of the unit starting June 2, 2023 to the date the Tenants move out of the unit.
7. If the Tenants do not pay the Landlords the full amount owing on or before June 12, 2023, the Tenants will start to owe interest. This will be a simple interest calculated from June 13, 2023 at 6.00% annually on the balance outstanding.

**June 1, 2023**  
**Date Issued**

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Emile Ramlochan

Member, Landlord and Tenant Board

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

The Tenants have until June 11, 2023 to file a motion with the LTB to set aside the order under s. 78(9) of the Act. If the Tenants file the motion by June 11, 2023 the order will be stayed and the LTB will schedule a hearing.

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 13, 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 Tenants must pay the Landlords:**

<b>Reason for amount owing</b>	<b>Period</b>	<b>Amount</b>
Amount owing from previous order	Up to April 30, 2023	\$24,580.00
New Arrears	May 27, 2023 to June 1, 2023	\$551.82
Less the rent deposit:		-\$3,800.00
Less the interest owing on the rent deposit	April 25, 2022 to June 1, 2023	-\$70.93
Plus daily compensation owing for each day of occupation starting June 2, 2023		\$124.93 (per day)
<b>Total the Tenants must pay the Landlords:</b>		<b>\$21,260.89 + \$124.93 per day starting June 2, 2023</b>

2023 ONLTB 40015 (CanLI)