



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

**Citation:** Bruce County Housing Corporation v Richard Birt, 2023 ONLTB 39701

**Date:** 2023-05-31

**File Number:** LTB-L-037948-23

**In the matter of:** 101B, 659 ARLINGTON ST PORT  
ELGIN ON N0H2C4

**Between:** Bruce County Housing Corporation Landlord

**And**

Richard Birt Tenant

Bruce County Housing Corporation (the 'Landlord') applied for an order to terminate the tenancy and evict Richard Birt (the 'Tenant') and for an order to have the Tenant pay compensation for damage they owe because the Tenant did not meet a condition specified in the mediated settlement signed by the parties on March 3, 2023, with respect to application LTB-L-051510-22.

This application was decided without a hearing being held.

### **Determinations:**

1. The mediated settlement 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 mediated settlement. This application was filed within 30 days of the breach.
2. I find that the Tenant has not met the following condition(s) specified in the mediated settlement:

**a) The Tenant failed to refrain from having or allowing any open flame to be present inside the Rental Unit and the Residential Complex.**

**b) The Tenant failed to not allow disposing of or storing any used, consumed and/or burnt cigarettes inside the Rental Unit or inside the Residential Complex, and properly disposing of the same only into any designated receptacles or containers provided by the landlord.**

3. The previous application includes a request for an order for compensation for damage and the mediated settlement requires the Tenant to pay an amount for damage. Accordingly, the Landlord is entitled to request an order for compensation for damage.
4. The Tenant was required to pay \$55,287.22 for compensation for damage and the application filing fee in the previous mediated settlement. The amount that is still owing from that mediated settlement is \$55,087.22 and that amount is included in this order subject to the Board's monetary limit pursuant to section 207 of the Act.
5. 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 \$6.12. This amount is calculated as follows: \$186.00 x 12, divided by 365 days.

**It is ordered that:**

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before June 11, 2023.
2. If the unit is not vacated on or before June 11, 2023, then starting June 12, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. 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 12, 2023.
4. The Tenant shall pay to the Landlord \$35, 000 (pursuant to the Board's monetary limit). This amount represents the unpaid compensation for damage the costs related to the application fee for the previous application.
5. The Tenant shall also pay to the Landlord \$6.12 per day for compensation for the use of the unit starting June 1, 2023, to the date the Tenant moves out of the unit.
6. If the Tenant does not pay the Landlord the full amount owing on or before June 11, 2023, the Tenant will start to owe interest. This will be a simple interest calculated from June 12, 2023, at 6.00% annually on the balance outstanding.

**May 31, 2023**  
**Date Issued**

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Emile Ramlochan  
Member, Landlord and Tenant Board

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

The Tenant has until June 10, 2023, to file a motion with the LTB to set aside the order under s. 78(9) of the Act. If the tenant files the motion by June 10, 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 12, 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 of compensation for damages owing from previous mediated settlement		\$55,087.22
Plus daily compensation owing for each day of occupation starting June 1, 2023		\$6.12 (per day)
<b>Total the Tenant must pay the Landlord:</b>		<b>\$55,087.22 + \$6.12 per day starting June 1, 2023</b>

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