



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

**Citation:** Oneka Land Company Ltd. v Fernando Bolton, 2023 ONLTB 39081

**Date:** 2023-05-31

**File Number:** LTB-L-037488-23

**In the matter of:** 41 NOTTINGHAM AVE  
KITCHENER ON N2B1A1

**Between:** Oneka Land Company Ltd. Landlord

**And**

Fernando Bolton Tenant

Oneka Land Company Ltd. (the 'Landlord') applied for an order to terminate the tenancy and evict Fernando Bolton (the 'Tenant') and for an order to have the Tenant pay the rent they owe because the Tenant did not meet a condition specified in the mediated settlement signed by the parties on April 12, 2023 with respect to application LTB-L-050195-22.

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 specified in the mediated settlement:

**The Tenant failed to pay to the Landlord the lawful rent in full on or before May 1, 2023.**

3. The previous application includes a request for an order for the payment of arrears of rent and the mediated settlement 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.

4. The Tenant was required to pay \$6,697.36 for rent arrears and the application filing fee in the previous mediated settlement. The amount that is still owing from that mediated settlement is \$6,139.36 and that amount is included in this order.
5. Since the date of the previous mediated settlement, the Tenant has failed to pay the full rent that became owing for the period from May 1, 2023 to May 31, 2023.
6. The Landlord collected a rent deposit of \$1,529.16 from the Tenant and this deposit is still being held by the Landlord.
7. Interest on the rent deposit is owing to the Tenant for the period from January 1, 2020 to May 31, 2023.
8. The amount of the rent deposit and interest on the rent deposit is applied to the amount the Tenant is required to pay.
9. 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 \$50.74. This amount is calculated as follows: \$1,543.30 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 \$4,685.69\***(Less any payments made by the Tenant after this application was filed on May 9, 2023)**. This amount represents the rent owing up to May 31, 2023 and the cost of filing the previous application, less the rent deposit and interest the Landlord owes on the rent deposit.
5. The Tenant shall also pay to the Landlord \$50.74 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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Michael Di Salle

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:**

Reason for amount owing	Period	Amount
Amount owing from previous mediated settlement	Up to March 31, 2023	\$6,139.36
New Arrears	May 1, 2023 to May 31, 2023	\$143.30
Less the rent deposit:		-\$1,529.16
Less the interest owing on the rent deposit	January 1, 2020 to May 31, 2023	-\$67.81
Plus daily compensation owing for each day of occupation starting June 1, 2023		\$50.74 (per day)
<b>Total the Tenant must pay the Landlord:</b>		<b>\$4,685.69 +\$50.74 per day starting June 1, 2023</b>

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