



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

Citation: Gilbert Chen v Harper, 2023 ONLTB 38997

Date: 2023-05-29

File Number: LTB-L-034699-23

In the matter of: 38 BOONE CRES
KLEINBURG ON L4H4V1

Between: Gilbert Chen Landlord

And

Beverley Harper and Priscilla Xymines Tenants

Gilbert Chen (the 'Landlord') applied for an order to terminate the tenancy and evict Beverley Harper and Priscilla Xymines (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 April 12, 2023 with respect to application LTB-L-045697-22.

This application was decided without a hearing being held.

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 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:

The Tenants failed to pay to the Landlord \$1,800.00 in full on or before April 1, 2023, towards arrears of rent.

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 \$35,000.00 for rent arrears and the application filing fee in the previous order. The amount that is still owing from that order is \$33,300.00 and by virtue of the Tenants' default, the amount due has been accelerated and made payable by paragraph 7 of the previous order. The past arrears addressed by the previous order are now due and payable under the terms of the previous order as well as any new arrears

which became owing after March 15, 2023. The Board's monetary jurisdictional limit is \$35,000.00 and including these amounts in this order would bring the amount awarded in excess of the Board's monetary jurisdiction. Therefore, the previous order LTB-L-04569722 is not cancelled by this order, and this money awarded in this order addresses only the arrears that have accrued since the previous order.

5. The Landlord is not holding a last month's rent deposit.
6. The Landlord is entitled to daily compensation from the day after this order is issued to the date the Tenants moves out of the unit at a daily rate of \$164.38. This amount is calculated as follows: \$5,000.00 x 12, divided by 365 days.

It is ordered that:

1. Order LTB-L-045697-22 is not 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 9, 2023.
3. If the unit is not vacated on or before June 9, 2023, then starting June 10, 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 10, 2023.
5. The Tenants shall pay to the Landlord \$4,767.02***(Less any payments made by the Tenants after this application was filed on April 30, 2023)**. This amount represents the rent owing up to May 29, 2023.
6. The Tenants shall also pay to the Landlord \$164.38 per day for compensation for the use of the unit starting May 30, 2023 to the date the Tenants moves out of the unit.
7. If the Tenants do not pay the Landlord the full amount owing on or before June 9, 2023, the Tenants will start to owe interest. This will be a simple interest calculated from June 10, 2023 at 6.00% annually on the balance outstanding.

May 29, 2023
Date Issued

Kimberly Parish
Member, Landlord and Tenant Board

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

The Tenants have until June 8, 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 8, 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 10, 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 Landlord:

Reason for amount owing	Period	Amount
Amount of new arrears to the date of this order	May 1, 2023 to May 29, 2023	\$4,767.02
Plus daily compensation owing for each day of occupation starting May 30, 2023		\$164.38 (per day)
Total the Tenants must pay the Landlord:		\$4,767.02 + \$164.38 per day starting May 30, 2023

2023 ONLTB 38997 (CanLII)