



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

Citation: The Donway East Limited v Richard Henriques, 2023 ONLTB 38050

Date: 2023-05-24

File Number: LTB-L-033964-23

In the matter of: 104, 4 THE DONWAY E
NORTH YORK ON M3C1X7

Between: The Donway East Limited Landlord

And

Maise Smith Tenants
Richard Henriques

The Donway East Limited (the 'Landlord') applied for an order to terminate the tenancy and evict Maise Smith and Richard Henriques (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 mediated settlement signed by the parties on March 27, 2023, with respect to application LTB-L-047611-22.

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 Tenants to terminate the tenancy and evict the Tenants if the Tenants do not meet certain condition(s) in the mediated settlement. 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 mediated settlement: **The Tenants failed to pay the full \$1,400.00.00 towards arrears on or before April 14, 2023**
3. The previous application includes a request for an order for the payment of arrears of rent and the mediated settlement 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 \$8,313.60 for rent arrears and the application filing fee in the previous mediated settlement. The amount that is still owing from that mediated settlement is \$8,023.60 and that amount is included in this order.
5. The Landlord collected a rent deposit of \$1,850.00 from the Tenants and this deposit is still being held by the Landlord.
6. Interest on the rent deposit is owing to the Tenants for the period from December 1, 2022, to May 24, 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 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 \$61.55. This amount is calculated as follows: \$1,872.20 x 12, divided by 365 days.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated. The Tenants must move out of the rental unit on or before June 4, 2023.
2. If the unit is not vacated on or before June 4, 2023, then starting June 5, 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 5, 2023.
4. The Tenants shall pay to the Landlord \$7,630.67 (**Less any payments made by the Tenants after this application was filed on April 27, 2023**). This amount represents the rent owing up to May 24, 2023, and the cost of filing the previous application, less the rent deposit and interest the Landlord owes on the rent deposit.
5. The Tenants shall also pay to the Landlord \$61.55 per day for compensation for the use of the unit starting May 25, 2023, to the date the Tenants move out of the unit.
6. If the Tenants do not pay the Landlord the full amount owing on or before June 4, 2023, the Tenants will start to owe interest. This will be a simple interest calculated from June 5, 2023, at 6.00% annually on the balance outstanding.

May 24, 2023

Date Issued

Vladislav Shustov

Member, Landlord and Tenant Board

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

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The Tenants have until June 3, 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 3, 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 5, 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 owing from previous mediated settlement	Up to March 31, 2023	\$8,023.60
New Arrears	to May 24, 2023	\$1477.20
Less the rent deposit:		-\$1,850.00
Less the interest owing on the rent deposit	December 1, 2022, to May 24, 2023	-\$20.13
Plus daily compensation owing for each day of occupation starting May 25, 2023		\$61.55 (per day)
Total the Tenants must pay the Landlord:		\$7,630.67 + \$61.55 per day starting May 25, 2023

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