



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

**Citation:** Kim v Worrell, 2023 ONLTB 37746

**Date:** 2023-05-19

**File Number:** LTB-L-011879-23

**In the matter of:** Apt 3-Unit B-331 Atherley Road  
Orillia, ON L3V 1N8

**Between:** Jongkyun Kim Landlord

**And**

Gina Worrell Tenant

Jongkyun Kim (the 'Landlord') applied for an order to terminate the tenancy and evict Gina Worrell (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 with respect to application LTB-L-039518-22.

This matter was directed to a hearing as it was unclear what payments were made by the Tenant.

This application was heard by videoconference on April 17, 2023.

Only the Landlord and the Landlord's Legal Representative Michael Preston attended the hearing. As of 1:30 pm, the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the Board.

### **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 conditions specified in the mediated settlement:
  - a) The Tenant failed to pay \$200.00 towards the arrears on or before December 1, 2022.
  - b) The Tenant failed to pay the regular rent on time and in full by December 1, 2022.
  - c) The Tenant failed to pay \$200.00 towards the arrears on or before January 1, 2023.

- d) The Tenant failed to pay the regular rent on time and in full by January 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 \$5,086.00 for rent arrears and the application filing fee in the previous mediated settlement. The amount that is still owing from that mediated settlement is \$4,286.00 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 December 1, 2022 to April 30, 2023.
  6. There is no last month's rent deposit.
  7. 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 \$23.01. This amount is calculated as follows: \$700.00 x 12, divided by 365 days.

**It is ordered that:**

8. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before May 30, 2023.
9. If the unit is not vacated on or before May 30, 2023, then starting May 31, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
10. 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 May 31, 2023.
11. The Tenant shall pay to the Landlord \$7,423.19\*. This amount represents the rent owing up to May 19, 2023.
12. The Tenant shall also pay to the Landlord \$23.01 per day for compensation for the use of the unit starting May 20, 2023 to the date the Tenant moves out of the unit.
13. If the Tenant does not pay the Landlord the full amount owing on or before May 30, 2023, the Tenant will start to owe interest. This will be a simple interest calculated from May 31, 2023 at 6.00% annually on the balance outstanding.

**May 19, 2023**  
**Date Issued**

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 Jagger Benham  
 Member, Landlord and Tenant Board

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

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 November 30, 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 owing from previous mediated settlement	Up to	\$4,286.00
New Arrears	December 1, 2022 to May 19, 2023	\$3,137.19
New NSF cheque charges and related administration charges		\$0.00
Plus daily compensation owing for each day of occupation starting May 20, 2023		\$23.01 (per day)
<b>Total the Tenant must pay the Landlord:</b>		<b>\$7,423.19 +\$23.01 per day starting May 20, 2023</b>

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