



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

Citation: Jasmar Investments Inc. v Regimbald, 2023 ONLTB 37790

Date: 2023-05-18

File Number: LTB-L-005702-23

In the matter of: 107-149 Tupper Street East
Alliston, ON L9R 1G2

Landlord

Between: Jasmar Investments Inc.

And

Donald Regimbald
Susan Regimbald

Tenants

Jasmar Investments Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Donald Regimbald and Susan Regimbald (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 February 28, 2022 with respect to application CEL-04240-21.

This matter was directed to a hearing to clarify the alleged breach.

This application was heard by videoconference on April 24, 2023.

The Landlord's Legal Representative Daniela Reid and the Tenants attended the hearing.

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 conditions specified in the order:
 - a) The Tenants have failed to pay \$525.00 towards the arrears of rent on or before November 20, 2022.
 - b) The Tenants have failed to pay the regular monthly rent for the month of December on or before December 1, 2022.
 - c) The Tenants have failed to pay the regular monthly rent for the month of January on or before January 1, 2023.

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 \$10,936.15 for rent arrears and the application filing fee in the previous order. The amount that is still owing from that order is \$2,086.15 and that amount is included in this order.
5. Since the date of the previous order, the Tenants has failed to pay the full rent that became owing for the period from October 20, 2022 to April 30, 2023.
6. The Tenants acknowledged the breach and testified that they are having continued problems with their pensions. The Tenants testified that they are only able to pay \$1,000.00 towards rent and arrears for the next two months.
7. The Tenants testified that they would like to stay in the unit but understand that the Landlord is not a charity and requires the rent to be paid. Despite their financial issues, the Tenants testified that the Landlords have been working with them for some time and understand their position.

Rent Deposit

8. The Landlord collected a rent deposit of \$1,000.00 from the Tenant and this deposit is still being held by the Landlord.
9. Interest on the rent deposit is owing to the Tenant for the period from September 1, 2018 to May 18, 2023.
10. The amount of the rent deposit and interest on the rent deposit is applied to the amount the Tenant is required to pay.

Daily Compensation

11. The Landlord is entitled to daily compensation from the day after this order is issued to the date the Tenants move out of the unit at a daily rate of \$32.65. This amount is calculated as follows: $\$993.19 \times 12$, divided by 365 days.

Section 83 Considerations

12. The parties agreed that eviction could be postponed until the end of May. I have considered all of the disclosed circumstances in accordance with s. 83(2) of the Act and find that it would not be unfair to grant relief from eviction pursuant to s. 83(1) of the Act.

It is ordered that:

13. Order CEL-04240-21 is cancelled.
14. The tenancy between the Landlord and the Tenants is terminated. The Tenants must move out of the rental unit on or before May 29, 2023.

15. If the unit is not vacated on or before May 29, 2023, then starting May 30, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
16. 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 30, 2023.
17. The Tenants shall pay to the Landlord \$7,905.02*. This amount represents the rent owing up to May 18, 2023 and the cost of filing the previous application, less the rent deposit and interest the Landlord owes on the rent deposit.
18. The Tenants shall also pay to the Landlord \$32.65 per day for compensation for the use of the unit starting May 19, 2023 to the date the Tenants move out of the unit.
19. If the Tenants do not pay the Landlord the full amount owing on or before May 29, 2023, the Tenants will start to owe interest. This will be a simple interest calculated from May 30, 2023 at 6.00% annually on the balance outstanding.

May 18, 2023
Date Issued

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 December 1, 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 order	Up to July 31, 2021	\$2,086.15
New Arrears	October 20, 2022 to May 18, 2023	\$6,887.03
New NSF cheque charges and related administration charges		\$0.00
Less the rent deposit:		-\$1,000.00
Less the interest owing on the rent deposit	September 1, 2018 to May 18, 2023	-\$68.16
Plus daily compensation owing for each day of occupation starting May 19, 2023		\$32.65 (per day)
Total the Tenants must pay the Landlord:		\$7,905.02 + \$32.65 per day starting May 19, 2023

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