



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

**Citation:** The Effort Trust Company v Turcotte, 2023 ONLTB 37080

**Date:** 2023-05-18

**File Number:** LTB-L-006068-23

**In the matter of:** 308-95 Wentworth Street South Hamilton,  
ON L8N 2Y7

**Between:** The Effort Trust Company Landlord

**And**

Kyle Turcotte Tenant

The Effort Trust Company (the 'Landlord') applied for an order to terminate the tenancy and evict Kyle Turcotte (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 September 27, 2022 with respect to application LTB-L-012884-22.

This matter was directed to a hearing to determine the details of the breach.

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

Only the Landlord's Legal Representative Kimberly Holleran attended the hearing. As of 9:25 am, 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 the monthly rent in full for the month of December 2022. Rent is \$917.00 per month and the Tenant paid \$721.00.
  - b) The Tenant failed to make an arrears payment of \$100.00 by December 12, 2022.
  - c) The Tenant failed to pay rent or make an arrears payment for January 2023.
  - d) The Tenant paid January 2023's rent on February 1, 2023.
  - e) The Tenant paid February 2023's rent on March 1, 2023.
  - f) The Tenant failed to make an arrears payment of \$100.00 by March 13, 2023.
  - g) The Tenant failed to pay rent or make an arrears payment for April 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 \$692.00 for rent arrears, any NSF charges the Landlord incurred and the application filing fee in the previous mediated settlement. The amount that is still owing from that mediated settlement is \$192.00 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 January 31, 2023.
  6. The Landlord collected a rent deposit of \$840.00 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 March 1, 2017 to May 18, 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 \$30.15. This amount is calculated as follows:  $\$917.00 \times 12$ , divided by 365 days.

**It is ordered that:**

10. Order LTB-L-012884-22, issued on September 27, 2022, is cancelled and replaced with this order.

11. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before May 29, 2023.
12. 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.
13. 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.
14. The Tenant shall pay to the Landlord \$1,698.74\*. 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.
15. The Tenant shall also pay to the Landlord \$30.15 per day for compensation for the use of the unit starting May 19, 2023 to the date the Tenant moves out of the unit.
16. If the Tenant does not pay the Landlord the full amount owing on or before May 29, 2023, the Tenant 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**

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Jagger Benham

Member, Landlord and Tenant Board

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

The Tenant has until May 28, 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 May 28, 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 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 September 30, 2022	\$192.00
New Arrears	December 1, 2022 to May 18, 2023	\$2,376.70
New NSF cheque charges and related administration charges		\$60.00
Less the rent deposit:		-\$840.00
Less the interest owing on the rent deposit	March 1, 2017 to May 18, 2023	-\$89.96
Plus daily compensation owing for each day of occupation starting May 19, 2023		\$30.15 (per day)
<b>Total the Tenant must pay the Landlord:</b>		<b>\$1,698.74 + \$30.15 per day starting May 19, 2023</b>

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