



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

Citation: Robert Navarrete v Ashley Meyers, 2023 ONLTB 37135

Date: 2023-05-17

File Number: LTB-L-004566-23

In the matter of: 1722D NASH RD
COURTICE ON L1E2L8

Between: John Occhialini Landlords
Robert Navarrete

And

Ashley Meyers Tenants
Derek Roberto
Diane Roberto

John Occhialini and Robert Navarrete (the 'Landlords') applied for an order to terminate the tenancy and evict Ashley Meyers, Derek Roberto and Diane Roberto (the 'Tenants') and for an order to have the Tenants pay compensation for damage they owe because the Tenants did not meet a condition specified in the mediated settlement signed by the parties on February 10, 2021 with respect to application TEL-11489-20.

The application was heard by videoconference on May 3, 2023.

The Landlords, the Landlords' Legal Representative, Lorrie McCullough, and the Tenant, Diane Roberto, attended the hearing. The Tenant spoke with Duty Counsel prior to the hearing.

Determinations:

1. The mediated settlement provides that the Landlords 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 does not meet certain condition(s) in the order. This application was filed within 30 days of the breach.

2. The breach

Paragraph 6 of the mediated settlement provides that the Tenants agree to adhere to all by-laws and fire regulations. The Tenants breached this condition. On November 22, 2022, the municipality of Clarington issued an order against the Tenants pursuant to Clarington's Clean and Clear by-law noting the presence of garbage, furniture, junk and

debris in the front yard. The municipality cleaned the refuse on December 8, 2022 at a cost of \$1,956.35 billed to the Landlords on their property tax bill.

The second breach relates to paragraph 10 of the mediated settlement. The Tenants did not pay \$150.00 towards the damage costs and \$150.00 towards the utility costs that was due on January 1, 2023.

3. The previous application includes a request for an order for compensation for damage and the order requires the Tenants to pay an amount for damage. The Tenants were required to pay \$6,742.31 for compensation for damage and the application filing fee in the previous settlement. The Tenants have paid this amount. Accordingly, this order replaces mediated settlement TEL-11489-20.

4. The rent deposit

The Landlords collected a rent deposit of \$1,913.39 from the Tenants and this deposit is still being held by the Landlords.

5. Interest on the rent deposit is owing to the Tenants for the period from October 1, 2022 to May 17, 2023.

6. Daily compensation

The Landlords 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 \$62.91. This amount is calculated as follows: $\$1,913.39 \times 12$, divided by 365 days.

7. Relief from eviction

I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would not be unfair to postpone the eviction until June 17, 2023, pursuant to subsection 83(1)(b) of the Act.

The Landlords say the issues with by-law infarctions and clean up has been an ongoing issue throughout the tenancy. It has been a source of constant stress. After the municipality cleaned up on December 8, 2022, the Tenants have reverted back to storing clutter and garbage. The Landlords submitted pictures taken May 1, 2023 that confirms this. The Landlords have incurred additional costs from the municipality because of the Tenants non-compliance with the Clean and Clear by-law.

While the Tenants have paid the damages ordered pursuant to the mediated settlement, the Tenants have shown a pattern of behaviour that suggests that they are unable to comply with conditions to keep the residential complex clean and clear of garbage, debris, etc. Accordingly, another conditional order would not be appropriate in the circumstances.

The Tenant says that they are on limited income and have pets. It would be difficult for them to move and find a place. The Tenant did not present any evidence of their efforts to search for new housing and are withholding the rent for May 2023 pending the outcome of this application.

Nonetheless, given the current state of the rental market generally and the fact that the Landlords are holding a last month's rent deposit, it would not be unfair to delay the eviction to allow the Tenants to make alternate housing arrangements.

It is ordered that:

1. The tenancy between the Landlords and the Tenants is terminated. The Tenants must move out of the rental unit on or before June 17, 2023.
2. If the unit is not vacated on or before June 17, 2023, then starting June 18, 2023, the Landlords 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 Landlords on or after June 18, 2023.

May 17, 2023

Date Issued

Khalid Akram

Member, Landlords and Tenants 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 18, 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.