



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

Citation: London Cambridge Dev c/o Fidelity PM Ltd. v Tesfahun, 2023 ONLTB 37090

Date: 2023-05-17

File Number: LTB-L-008016-23

In the matter of: 506-130 Connaught Avenue
London, ON N5Y 3A7

Between: London Cambridge Dev c/o Fidelity PM Ltd. Landlord

And

Yohannes Tesfahun Tenant

London Cambridge Dev c/o Fidelity PM Ltd. (the 'Landlord') applied for an order to terminate the tenancy and evict Yohannes Tesfahun (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-020389-22.

The Landlord's application was directed to a hearing to clarify when the alleged breach occurred

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

The Landlord's Legal Representative Daniel Abraham and the Tenant attended the hearing. The Tenant met with Tenant Duty Counsel prior to the hearing.

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 make an arrears payment of \$577.00 by January 17, 2023, February 17, 2023, and March 17, 2023.
3. The Tenant acknowledged the breach and testified that due his payment schedule from his job he was unable to make the payments on time as agreed to.
 4. The Tenant testified that he intends on applying to the Rent Bank to get the entirety of the arrears paid by the end of May 2023.
 5. The Landlord's Legal Representative asked that a new standard order or for the previous order to be cancelled and replaced with a new order directing the arrears to be paid by the end of May 2023.
 6. 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.
 7. The Tenant was required to pay \$3,464.09 for rent arrears and the application filing fee in the previous mediated settlement. The amount that is still owing from that mediated settlement is \$1,890.23 and that amount is included in this order.
 8. 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 \$37.40. This amount is calculated as follows: $\$1,137.69 \times 12$, divided by 365 days.

Section 83 Considerations

9. Due to the fact that the Landlord's application was directed to a hearing, the provisions of s. 83 of the Act apply.
10. Having considered the evidence of both parties, I find the request to cancel the order and replace it with an order directing payment of the total arrears by the end of May is reasonable in the circumstances.

It is ordered that:

11. Order LTB-L-020389-22 issued on November 3, 2022 is cancelled and replaced with the following order:
12. The Tenant shall pay to the Landlord \$1,890.23 for arrears of rent and costs by May 31, 2023.
13. The Tenant shall also pay the Landlord new rent on time and in full as it comes due and owing for May 1, 2023 or until the arrears are paid in full, whichever date is earliest.
14. If the Tenant fails to make any one of the payments in accordance with this order, the outstanding balance of any arrears of rent and costs to be paid by the Tenant to the

Landlord pursuant to paragraph 12 of this order shall become immediately due and owing and the Landlord may, without notice to the Tenant, apply to the LTB within 30 days of the Tenant's breach pursuant to section 78 of the Act for an order terminating the tenancy and evicting the Tenant and requiring that the Tenant pay any new arrears, NSF fees and related charges that became owing after May 31, 2023.

May 17, 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.

* Refer to the attached Summary of Calculations.

Summary of Calculation

Amount the Tenant must pay the Landlord:

| Reason for amount owing | Period | Amount |
|--|---------------------------------|--|
| Amount owing from previous mediated settlement | Up to October 31, 2022 | \$1,890.23 |
| New Arrears | January 1, 2023 to May 17, 2023 | \$0.00 |
| New NSF cheque charges and related administration charges | | \$0.00 |
| Plus daily compensation owing for each day of occupation starting May 18, 2023 | | \$37.40 (per day) |
| Total the Tenant must pay the Landlord: | | \$1,890.23 +\$37.40 per day starting May 18, 2023 |

2023 ONLTB 37090 (CanLII)