



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

**Citation:** Capreit Limited Partnership v Huseein, 2023 ONLTB 37642

**Date:** 2023-05-16

**File Number:** LTB-L-026541-23

**In the matter of:** 101, 2541 LAKE SHORE BLVD W  
TORONTO ON M8V1E5

**Between:** Capreit Limited Partnership Landlord

**And**

Ammal Mohamed and Mohamed Dimbal Tenants  
Huseein

Capreit Limited Partnership (the 'Landlord') applied for an order to terminate the tenancy and evict Ammal Mohamed and Mohamed Dimbal Huseein (the 'Tenants') and because the Tenants failed to meet a condition specified in the order issued by the Board on March 28, 2023 with respect to application LTB-L-022353-22.

This application was decided without a hearing being held.

**Determinations:**

1. The order provided that the Landlord could apply to the Board 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 did not meet certain conditions specified in the order.

2. I find that the Tenant has not met the following conditions specified in the order:

For the two-year period between March 7, 2023 and March 6, 2025, the Tenants, their occupants, and guests shall not make excessive noise within the residential complex. Excessive noise includes but is not limited to screaming, banging, and yelling.

3. The Tenants breached the above condition on the following dates:

- On March 17, 2023 at 8:30 pm, the Tenants, their occupants and/or guests were yelling loudly and cursing;
- On March 18, 2023 at 6:50 pm, the Tenants, their occupants and/or guests were in the hallway with loud music and were singing;

- On March 18, 2023 at 7:28 pm to 8:40 pm, the Tenants, their occupants and/or guests were yelling, screaming, and arguing;
- On March 19, 2023 from midnight to 5:00 am, the Tenants, their occupants and/or guests were yelling, screaming, cursing and arguing. From 10:00 am – Noon, the Tenants, their occupants and/or guests were yelling and arguing. At 1:44 pm, the Tenants, their occupants and/or guests were yelling, arguing, banging, and swearing;
- On March 20, 2023, at 11:17 am, the Tenants, their occupants and/or guests were yelling and arguing; and
- On March 23, 2023 from 7:00 am – 11:30 am, the Tenants, their occupants and/or guests were yelling and screaming.

**It is ordered that:**

1. The tenancy between the Landlord and the Tenants is terminated. The Tenants must move out of the rental unit on or before May 27, 2023.
2. If the unit is not vacated on or before May 27, 2023, then starting May 28, 2023, the Landlord 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 Landlord on or after May 28, 2023.

**May 16, 2023**

**Date Issued**

\_\_\_\_\_  
Kimberly Parish

Member, Landlord and Tenant Board

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

The Tenants have until May 26, 2023 to file a motion with the LTB to set aside the order under s. 78(9) of the Act. If the Tenants file the motion by May 26, 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 28, 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.