



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

Citation: STIRLING PROPERTY v Metcalfe, 2023 ONLTB 37632

Date: 2023-05-16

File Number: LTB-L-026521-23

In the matter of: 09, 415 FRONT STREET
STIRLING ON K9A1K7

Between: STIRLING PROPERTY MANAGEMENT INC Landlord

And

Stephen Metcalfe and Tammy Letourneau Tenants

On March 30, 2023, STIRLING PROPERTY MANAGEMENT INC (the 'Landlord') applied for an order to terminate the tenancy and evict Stephen Metcalfe and Tammy Letourneau (the 'Tenants') and for an order to have the Tenants pay compensation they owe because the Tenants did not meet a condition specified in the order issued by the LTB on October 12, 2022 with respect to application TEL-21920-22.

This application was decided without a hearing being held.

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. The previous order TEL-21920-22 notes that the parties agreed that order TEL-17035-21, issued on September 29, 2021, shall remain in effect for one year until October 12, 2023. Paragraph 1 c) of that order notes that the Tenants shall not make excessive noise such as sounds of yelling, screaming, or breaking things.
3. I find that the Tenants have not met the following condition specified in the order:

On March 22, 2023 at 10:00 am, the Tenants residing in the rental unit were arguing loudly and were playing very loud music which continued all day and through the night.

On March 26, 2023 at 3:00 pm, the Tenants residing in the rental unit were arguing loudly and were playing very loud music which continued all day and through the night. Further, there was loud banging which did not stop until late in the night.

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4. The Landlord collected a rent deposit of \$1,032.11 from the Tenants and this deposit is still being held by the Landlord.
5. Interest on the rent deposit in the amount of \$9.62 is owing to the Tenants for the period from January 1, 2023, to May 16, 2023.
6. 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 \$33.93. This amount is calculated as follows: \$1,032.11 x 12, divided by 365 days.

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.
4. The Tenants shall also pay to the Landlord \$33.93 per day for compensation for the use of the unit starting May 17, 2023 to the date the Tenants move out of the unit. The Landlord shall deduct any amounts the Tenants owe to the Landlord for compensation from the rent deposit and the interest on the rent deposit being held by the Landlord.
5. If the Tenants do not pay the Landlord the full amount owing on or before May 27, 2023, the Tenants will start to owe interest. This will be a simple interest calculated from May 28, 2023 at 6.00% annually on the balance outstanding.

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.