



**Order under Section 69
Residential Tenancies Act, 2006**

Citation: Heidi Raposo v Wendy Gutirezze, 2023 ONLTB 37148

Date: 2023-05-16

File Number: LTB-L-028403-22

In the matter of: 125 KEATS DR
WOODSTOCK ON N4S8C1

Between: Heidi Raposo Landlords
Steve Shepherd

And

Wendy Gutirezze Tenant

Heidi Raposo and Steve Shepherd (the 'Landlords') applied for an order to terminate the tenancy and evict Wendy Gutirezze (the 'Tenant') because the Tenant has been persistently late in paying the Tenant's rent. The Landlords also claimed compensation for each day the Tenant remained in the unit after the termination date. This application was heard by videoconference on May 1, 2023.

Only the Landlords attended the hearing. As of 10:16 a.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlords' evidence.

Determinations:

1. The Landlords have proven on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation in the application. Therefore, the application is granted.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On May 18, 2022, the Landlords gave the Tenant an N8 notice of termination (the N8) with a termination date of August 14, 2022. At the time of the service of the N8 this was a midmonth tenancy, but thereafter by agreement of the parties, became a monthly tenancy.

4. The Tenant has persistently failed to pay the rent on the date it was due in accordance with the information set out in the N8.
5. The Tenant was required to pay the Landlord \$16,435.99 in daily compensation for use and occupation of the rental unit for the period from August 15, 2022 to May 1, 2023.
6. Based on the monthly rent, the daily compensation is \$63.22. This amount is calculated as follows: \$1,922.80 x 12, divided by 365 days.
7. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlords collected a rent deposit of \$1,900.00 from the Tenant and this deposit is still being held by the Landlord.
9. In accordance with subsection 106(10) of the *Residential Tenancies Act, 2006*, (the 'Act') the last month's rent deposit shall be applied to the rent for the last month of the tenancy.
10. 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 grant relief from eviction pursuant to subsection 83(1)(a) of the Act. Specifically, the Landlords

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before May 31, 2023.
2. If the unit is not vacated on or before May 31, 2023, then starting June 1, 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 June 1, 2023.
4. The Tenant shall pay to the Landlord \$14,535.99, which represents compensation for the use of the unit from August 15, 2022 to May 1, 2023, less the rent deposit and interest the Landlord owes on the rent deposit.
5. The Tenant shall also pay the Landlord compensation of \$63.22 per day for the use of the unit starting May 2, 2023 until the date the Tenant moves out of the unit.
6. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
7. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.

May 16, 2023

Date Issued

Sean Henry

Vice Chair, 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.

In accordance with section 81 of the Act, the part of this order relating to the eviction of the Tenant expires on December 1, 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.