



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

Citation: Williams & McDaniel Property Management v Otter, 2023 ONLTB 36121

Date: 2023-05-03

File Number: LTB-L-025781-23

In the matter of: 408, 316 KATHLEEN ST
GUELPH ON N1H4Y9

Between: Williams & McDaniel Property Management Landlord

And

Melissa Otter Tenant

On March 28, 2023, Williams & McDaniel Property Management (the 'Landlord') applied for an order to terminate the tenancy and evict Melissa Otter (the 'Tenant') and for an because the Tenant failed to meet a condition specified in the order issued by the Board on August 9, 2022 with respect to application LTB-L-021864-22.

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: **The Tenant failed to cease and desist from committing any further illegal acts on the residential complex property. On March 18, 2023 on or around 9:00 pm, the Tenant threw a flowerpot filled with dirt off of her balcony while shouting obscenities. The flowerpot landed on the ground beside another tenant and their guest. On March 22, 2023, on or around 9:30 pm, the Tenant was screaming and yelling while throwing objects off of her balcony.**
3. As per the requirement set out within paragraph 3 of the previous order LTB-L-02186422, the Landlord emailed Christian Horizons on March 24, 2023, setting forth the details of

the breach of LTB-L-021864-22. The Landlord also submits in that same email that the Tenant's conduct is contrary to the following sections of the *Criminal Code, RSC 1985, c C-46*: 180 - Common Nuisance, 264 - Criminal Harassment, 423 - Intimidation, 430 – Mischief.

Order Page: 1 of 2

4. The Landlord collected a rent deposit of \$1,087.70 from the Tenant and this deposit is still being held by the Landlord.
5. Interest on the rent deposit in the amount of \$81.04 is owing to the Tenant for the period from December 1, 2015 to May 3, 2023.

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 14, 2023.
2. If the unit is not vacated on or before May 14, 2023, then starting May 15, 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 15, 2023.
4. As of the date of this order, the amount of the rent deposit (\$1,087.70) held by the Landlord and interest (\$81.04) that the Landlord owes on the rent deposit total \$1,168.74. However, the Landlord is authorized to deduct the following from the amount the Landlord owes the Tenant: \$37.49 per day for compensation for the use of the unit starting May 4, 2023 to the date the Tenant moves out of the unit.
5. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.

May 3, 2023

Date Issued

Kimberly Parish

Member, Landlord and Tenant Board

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

The Tenant has until May 13, 2023 to file a motion with the LTB to set aside the order under s. 78(9) of the Act. If the tenant files the motion by May 13, 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 15, 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.

Order Page: 2 of 2