



**Order under Section 69 utilizing Section 78
Residential Tenancies Act, 2006**

Citation: M.F. Arnsby Property Management Ltd. v Kyra To, 2023 ONLTB 34373

Date: 2023-05-03

File Number: LTB-L-056845-22

In the matter of: 318, 440 CLARKE RD
LONDON ON N5W6H1

Between: M.F. Arnsby Property Management Ltd. and Landlords
Zerin Development Corporation

And

Kyra To Tenant

M.F. Arnsby Property Management Ltd. and Zerin Development Corporation (the 'Landlords') applied for an order to terminate the tenancy and evict Kyra To (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on April 24, 2023.

Only the Landlord's legal representative, Thomas Schoenleber, attended the hearing. As of 9:38am, 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 Landlord's evidence.

Determinations:

1. The Landlords served the Tenant with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). The Tenant did not void the notice by paying the amount of rent arrears owing by the termination date in the N4 Notice or before the date the application was filed.
2. As of the hearing date, the Tenant was still in possession of the rental unit.
3. The lawful rent as of January 1, 2023 is \$1,322.00. It is due on the 1st day of each month.
4. The Tenant has paid \$11,030.87 to the Landlord since the application was filed.
5. The rent arrears owing to April 30, 2023 are \$964.99.
6. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

7. The Landlords collected a rent deposit of \$1,290.00 from the Tenant and this deposit is still being held by the Landlords. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.
8. Interest on the rent deposit, in the amount of \$10.07 is owing to the Tenant for the period from January 1, 2023 to April 24, 2023.
9. At the hearing, the Landlords requested that the Board order a payment plan that they had worked out with the Tenant in advance of the hearing. The Tenant has been making the payments to the Landlords as agreed and the Landlord requested to continue with this arrangement.
10. I see no reason to deny the Landlords' request since it provides relief from eviction for the Tenant.
11. 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 subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.

It is ordered that:

1. The Tenant shall pay to the Landlords \$1,150.99 for arrears of rent up to April 30, 2023 and costs.
2. The Tenant shall pay to the Landlords the amount set out in paragraph 1 in accordance with the following schedule:
 - a) \$393.67 on or by May 1, 2023, and June 1, 2023, and a final payment of \$363.65 on or by July 1, 2023; and
3. The Tenant shall also pay to the Landlords new rent on time and in full on or by the first day of each corresponding month for the period of May 1, 2023, to July 1, 2023, or until the arrears are paid in full, whichever date is earliest.
4. 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 Landlords pursuant to paragraph 1 of this order shall become immediately due and owing and the Landlords 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 April 30, 2023.

May 3, 2023
Date Issued

15 Grosvenor Street, Ground Floor
 Toronto ON M7A 2G6

 Terri van Huisstede
 Member, Landlord and Tenant Board

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.