



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

Citation: Tibudan v Shoemaker, 2023 ONLTB 34555

Date: 2023-05-02

File Number: LTB-L-022504-22

In the matter of: UNIT 16, 80 FERMAN DR
GUELPH ON N1H8B3

Between: Catherine Tibudan Landlords
Noel Tibudan

And

Ryan Shoemaker Tenant

Catherine Tibudan and Noel Tibudan (the 'Landlords') applied for an order to terminate the tenancy and evict Ryan Shoemaker (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 March 9, 2023. Only the Landlords and their legal representative, G. Farb attended the hearing.

As of 10:16am, 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. As explained below, the Landlords has 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, and the tenancy shall terminate.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On March 25, 2022, the Landlords gave the Tenant an N8 notice of termination. The notice of termination contains the following allegations:

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- The Tenant paid the monthly rent for the periods April 1, 2021 to October 1, 2021 (7 months)
 - The Tenant failed to pay the monthly rent for the periods November 1, 2021 to March 1, 2022. (5 months).
4. The Tenant has persistently failed to pay the rent on the date it was due. The rent is due on the 1st day of each month. The rent has been paid late 12 times in the past 12 months.
 5. The Landlord testified that after the notice was served the Tenant had not made any payments towards new or past due rent.
 6. The Tenant was required to pay the Landlords \$13,675.07 in daily compensation for use and occupation of the rental unit for the period from June 1, 2022 to March 9, 2023.
 7. Based on the Monthly rent, the daily compensation is \$48.49. This amount is calculated as follows: \$1,475.00 x 12, divided by 365 days.
 8. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
 9. The Landlords collected a rent deposit of \$1,475.00 from the Tenant and this deposit is still being held by the Landlords. Interest on the rent deposit, in the amount of \$26.80 is owing to the Tenant for the period from to March 9, 2023.
 10. 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.
 11. As noted, the Tenant did not attend the hearing of this matter and thus I did not have the opportunity to hear their evidence regarding their circumstances. or to dispute the Landlord's application for an eviction order.
 12. 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

It is ordered that:

1. The tenancy between the Landlords and the Tenant is terminated. The Tenant must move out of the rental unit on or before May 13, 2023.
2. If the unit is not vacated on or before May 13, 2023, then starting May 14, 2023, the Landlords 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 Landlords on or after May 14, 2023.
4. The Tenant shall pay to the Landlords \$12,173.27, which represents compensation for the use of the unit from June 1, 2022 to March 9, 2023, less the rent deposit and interest the Landlords owes on the rent deposit.
5. The Tenant shall also pay the Landlords compensation of \$48.49 per day for the use of the unit starting March 10, 2023 until the date the Tenant moves out of the unit.

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6. The Tenant shall also pay to the Landlords \$186.00 for the cost of filing the application.
7. The Landlords or the Tenant shall pay to the other any sum of money that is owed as a result of this order.
8. If the Tenant does not pay the Landlords the full amount owing on or before May 13, 2023, the Tenant will start to owe interest. This will be simple interest calculated from May 14, 2023 at 6.00% annually on the balance outstanding.

May 2, 2023

Date Issued

Curtis Begg

Member, 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 November 14, 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.

