



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

Citation: 212707 Ontario Limited v Duke, 2023 ONLTB 33482

Date: 2023-04-26

File Number: LTB-L-019463-23

In the matter of: 321, 1393 WILSON AVE
NORTH YORK ON M3M1H6

Between: 212707 Ontario Limited Landlord

And

Cecil Patrick Duke Tenants
Stephen Pokrywka

212707 Ontario Limited (the 'Landlord') applied for an order to terminate the tenancy and evict Cecil Patrick Duke and Stephen Pokrywka (the 'Tenants') and for an order to have the Tenants pay the rent they owe because the Tenants did not meet a condition specified in the mediated settlement signed by the parties on February 16, 2023, with respect to application LTB-L-03564822.

This application was decided without a hearing being held.

Determinations:

1. The mediated settlement 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 mediated settlement. This application was filed within 30 days of the breach.
2. I find that the Tenants have not met the following condition(s) specified in the mediated settlement:

- a) **The Tenants failed to pay \$3000.00 towards the arrears on or before February 3, 2023;**
 - b) **The Tenants failed to pay \$800.00 towards the arrears on or before March 1, 2023; and**
 - c) **The Tenants failed to pay to the Landlord the lawful monthly rent of \$1,501.62 in full on or before March 1, 2023**
3. The previous application includes a request for an order for the payment of arrears of rent and the mediated settlement requires the Tenants to make payments by specific due dates. Accordingly, in addition to eviction, the Landlord is entitled to request an order for the payment of arrears owing.
 4. The Tenants were required to pay \$10,349.24 for rent arrears and the application filing fee in the previous mediated settlement. The amount that is still owing from that mediated settlement is \$10,349.24 and that amount is included in this order.
 5. Since the date of the previous mediated settlement, the Tenants have failed to pay the full rent that became owing for the period from March 1, 2023, to March 31, 2023.
 6. The Landlord collected a rent deposit of \$1,129.13 from the Tenants and this deposit is still being held by the Landlord.
 7. Interest on the rent deposit is owing to the Tenants for the period from December 15, 2010 to April 26, 2023.
 8. The amount of the rent deposit and interest on the rent deposit is applied to the amount the Tenants are required to pay.
 9. The Landlord is entitled to daily compensation from the day after this order is issued to the date the Tenants move out of the unit at a daily rate of \$49.37. This amount is calculated as follows: \$1,501.62 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 7, 2023.
2. If the unit is not vacated on or before May 7, 2023, then starting May 8, 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 8, 2023.
4. The Tenant shall pay to the Landlord \$11,778.45 (**Less any payments made by the Tenants after this application was filed on March 3, 2023**). This amount represents the rent owing up to April 26, 2023, and the cost of filing the previous application, less the rent deposit and interest the Landlord owes on the rent deposit.

5. The Tenants shall also pay to the Landlord \$49.37 per day for compensation for the use of the unit starting April 27, 2023, to the date the Tenants move out of the unit.
6. If the Tenants do not pay the Landlord the full amount owing on or before May 7, 2023, the Tenants will start to owe interest. This will be a simple interest calculated from May 8, 2023, at 6.00% annually on the balance outstanding.

April 26, 2023

Date Issued

Kimberly Parish

Member, Landlord and Tenant Board

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

The Tenants have until May 6, 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 6, 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 8, 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.

* Refer to the attached Summary of Calculations.

Summary of Calculations

Amount the Tenants must pay the Landlord:

Reason for amount owing	Period	Amount
Amount owing from previous mediated settlement	Up to February 28, 2023	\$10,349.24
New Arrears	March 1, 2023, to April 26, 2023	\$2,785.24
Less the rent deposit:		-\$1,129.13
Less the interest owing on the rent deposit	December 15, 2010 to April 26, 2023	-\$226.90
Plus daily compensation owing for each day of occupation starting April 27, 2023		\$49.37 (per day)
Total the Tenants must pay the Landlord:		\$11,778.45 +\$49.37 per day starting April 27, 2023

2023 ONLTB 33482 (CanLII)