



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

**Citation:** Starlight Canadian Residential Growth Fund III v Forbes, 2023 ONLTB 33261

**Date:** 2023-04-25

**File Number:** LTB-L-017083-23

**In the matter of:** 606, 190 NONQUON RD  
OSHAWA ON L1G3S7

**Between:** Starlight Canadian Residential Growth Fund III Landlord

**And**

Crystal Forbes Tenants  
Jason Reid

Starlight Canadian Residential Growth Fund III (the 'Landlord') applied for an order to terminate the tenancy and evict Crystal Forbes and Jason Reid (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 March 16, 2022, with respect to application TEL20975-21.

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 does 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 specified in the mediated settlement: **The Tenants failed to pay the full \$553.10 towards arrears on or before February 20, 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 \$7,153.10 for rent arrears and the application filing fee in the previous mediated settlement. The amount that is still owing from that mediated settlement is \$1,388.10 and that amount is included in this order.
5. The Landlord collected a rent deposit of \$1,775.00 from the Tenants and this deposit is still being held by the Landlord.
6. Interest on the rent deposit is owing to the Tenants for the period from February 1, 2022, to April 25, 2023.
7. The amount of the rent deposit and interest on the rent deposit is applied to the amount the Tenants are required to pay.
8. 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 \$58.83. This amount is calculated as follows: \$1,789.33 x 12, divided by 365 days.

**It is ordered that:**

1. Order LTB-L-029504-22 is cancelled.
2. The tenancy between the Landlord and the Tenants is terminated. The Tenants must move out of the rental unit on or before May 6, 2023.
3. If the unit is not vacated on or before May 6, 2023, then starting May 7, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
4. 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 7, 2023.
5. As of the date of this order, the amount of the rent deposit and interest the Landlord owes on the rent deposit exceeds the arrears of rent, compensation, and the cost of filing the previous application the Landlord is entitled to by \$420.38.
6. However, the Landlord is authorized to deduct the following from the amount the Landlord owes the Tenants: \$58.83 per day for compensation for the use of the unit starting April 26, 2023, to the date the Tenants move out of the unit.
7. The Landlord or the Tenants shall pay to the other any sum of money that is owed as a result of this order.

**April 25, 2023**

**Date Issued**

\_\_\_\_\_  
Vladislav Shustov

Member, Landlord and Tenant Board

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

The Tenants have until May 5, 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 5, 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 7, 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 Calculation**

**Amount the Tenant must pay the Landlord:**

<b>Reason for amount owing</b>	<b>Period</b>	<b>Amount</b>
Amount owing from previous mediated settlement	Up to March 31, 2022	\$1,388.10
Less the rent deposit:		-\$1,775.00
Less the interest owing on the rent deposit	February 1, 2022, to April 25, 2023	-\$33.48
Plus daily compensation owing for each day of occupation starting April 26, 2023		\$58.83 (per day)
<b>Total the Tenants must pay the Landlord:</b>		<b>- \$420.38 + \$58.83 per day starting April 26, 2023</b>

2023 ONLTB 33261 (CanLI)