



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

**Citation:** Wallis v Leuschner, 2023 ONLTB 32642

**Date:** 2023-04-25

**File Number:** LTB-L-015079-23

2023 ONLTB 32642 (CanLII)

**In the matter of:** 3 Larch Street  
Cardiff ON K0L1M0

**Between:** Michael Wallis Landlord

**And**

Candice Leuschner Tenant

Michael Wallis (the 'Landlord') applied for an order to terminate the tenancy and evict Candice Leuschner (the 'Tenant') and for an order to have the Tenant pay the rent they owe and for an order to have the Tenant pay compensation for damage they owe because the Tenant did not meet a condition specified in the order issued by the LTB on February 14, 2023 with respect to application LTB-L-011424-22 & LTB-L-081603-22.

This application was decided without a hearing being held.

### **Determinations:**

1. The order provides that the Landlord can apply to the LTB 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 does not meet certain condition(s) in the order. This application was filed within 30 days of the breach.
2. I find that the Tenant has not met the following condition specified in the order: **The Tenant failed to pay the full \$2800.00 towards arrears on or before February 15, 2023**

3. The previous application includes a request for an order for the payment of arrears of rent and the order requires the Tenant 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 Tenant was required to pay \$3,586.00 for rent arrears and the application filing fee in the previous order. The amount that is still owing from that order is \$2,586.00 and that amount is included in this order.
5. The Landlord collected a rent deposit of \$900.00 from the Tenant and this deposit is still being held by the Landlord.

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6. Interest on the rent deposit is owing to the Tenant for the period from November 21, 2023, to April 25, 2023.
7. The amount of the rent deposit and interest on the rent deposit is applied to the amount the Tenant are required to pay.
8. The Landlord is entitled to daily compensation from the day after this order is issued to the date the Tenant moves out of the unit at a daily rate of \$29.59. This amount is calculated as follows: \$900.00 x 12, divided by 365 days.

**It is ordered that:**

1. Order LTB-L-011424-22 & LTB-L-081603-22 is cancelled.
2. The tenancy between the Landlord and the Tenant is terminated. The Tenant 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. The Tenant shall pay to the Landlord \$1,614.39 (**Less any payments made by the Tenant after this application was filed on February 16, 2023**). This amount represents the rent owing up to April 25, 2023, and the cost of filling the application, less the rent deposit and interest the Landlord owes on the rent deposit.
6. The Tenant shall also pay to the Landlord \$29.59 per day for compensation for the use of the unit starting April 26, 2023, to the date the Tenant move out of the unit.

7. If the Tenant do not pay the Landlord the full amount owing on or before May 6, 2023, the Tenant will start to owe interest. This will be a simple interest calculated from May 7, 2023, at 6.00% annually on the balance outstanding.

**April 25, 2023**

**Date Issued**

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Lynn Mitchell

Member, Landlord and Tenant Board

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

The Tenant has 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 tenant files 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.

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In accordance with section 81 of the Act, the part of this order relating to the eviction expires on November 3, 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 Tenants must pay the Landlord:**

<b>Reason for amount owing</b>	<b>Period</b>	<b>Amount</b>
Amount owing from previous order	Up to January 31, 2023	\$2,586.00
Less the rent deposit:		-\$900.00
Less the interest owing on the rent deposit	November 21, 2017, to April 25, 2023	-\$71.61
Plus daily compensation owing for each day of occupation starting April 26, 2023		\$29.59 (per day)
<b>Total the Tenants must pay the Landlord:</b>		<b>\$1,614.39 +\$62.73 per day starting April 26, 2023</b>

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