



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

Citation: PARK PROPERTY MANAGEMENT INC. v Allaway, 2023 ONLTB 32990

Date: 2023-04-24

File Number: LTB-L-016021-23

In the matter of: 603, 3744 ST CLAIR AVE E
SCARBOROUGH ON M1M1T8

Between: PARK PROPERTY MANAGEMENT INC. Landlord

And

James Allaway Tenant

PARK PROPERTY MANAGEMENT INC. (the 'Landlord') applied for an order to terminate the tenancy and evict James Allaway (the 'Tenant') 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 November 30, 2022, with respect to application TEL-21816-22.

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 in that the Tenant has not maintained the unit in a state of ordinary cleanliness and failed to rectify the breach following the Landlord's seven day warning notice:
 - **The Tenant shall maintain the rental unit in a state of ordinary cleanliness; and**
 - **In the event the Tenant fails to comply with the above the Landlord shall provide the Tenant with written notice to remedy the breach within seven days.**
3. The previous application includes a request for an order for compensation for damage and the order requires the Tenant to pay an amount for damage. Accordingly, the Landlord is entitled to request an order for compensation for damage.
4. The Landlord collected a rent deposit of \$1,264.73 from the Tenant and this deposit is still being held by the Landlord.

5. Interest on the rent deposit is owing to the Tenant for the period from July 1, 2017, to April 24, 2023.
6. The amount of the rent deposit and interest on the rent deposit is applied to the amount the Tenant is required to pay.
7. 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 \$41.58. This amount is calculated as follows: \$1,264.73 x 12, divided by 365 days.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before May 5, 2023.
2. If the unit is not vacated on or before May 5, 2023, then starting May 6, 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 6, 2023.
4. As of the date of this order, the amount of the rent deposit and interest the Landlord owes on the rent deposit exceeds the compensation for damage the Landlord is entitled to by \$1,372.71.
5. However, the Landlord is authorized to deduct the following from the amount the Landlord owes the Tenant: \$41.58 per day for compensation for the use of the unit starting April 25, 2023, to the date the Tenant moves out of the unit.
6. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.

April 24, 2023

Date Issued

Lynn Mitchell

Member, Landlord and Tenant Board

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

The Tenant has until May 4, 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 4, 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 October 29, 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:**

Reason for amount owing	Period	Amount
Amount of compensation for damages owing from previous order		\$0.00
Less the rent deposit:		-\$1,264.73
Less the interest owing on the rent deposit	July 1, 2017, to April 24, 2023	-\$107.98
Plus daily compensation owing for each day of occupation starting April 25, 2023		\$41.58 (per day)
Total the Tenant must pay the Landlord:		- \$1,372.71 +\$41.58 per day starting April 25, 2023

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