



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

Citation: Lam v Daniel, 2023 ONLTB 32975

Date: 2023-04-24

File Number: LTB-L-015509-23

In the matter of: BASEMENT UNIT, 22 FLUELLEN DR
SCARBOROUGH ON M1W2B3

Between: John Lam Landlords
Shirley Tham

And

Thomas Daniel Tenants
Victoria Keat

John Lam and Shirley Tham (the 'Landlords') applied for an order to terminate the tenancy and evict Thomas Daniel and Victoria Keat (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 order issued by the LTB on January 26, 2023 with respect to application LTB-L-026309-22.

This application was decided without a hearing being held.

Determinations:

1. The order provides that the Landlords 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 order. This application was filed within 30 days of the breach.
2. I find that the Tenants have not met the following conditions specified in the order: **The Tenants failed to pay \$1,000.00 to the lawful monthly rent on or before January 31, 2023. Further, the Tenants failed to pay \$500 towards arrears, on or before February 1, 2023.**
3. The previous application includes a request for an order for the payment of arrears of rent and the order requires the Tenants to make payments by specific due dates. Accordingly, in addition to eviction, the Landlords are entitled to request an order for the payment of arrears owing.
4. The Tenants were required to pay \$15,024.00 for rent arrears and the application filing fee in the previous order. The amount that is still owing from that order is \$14,984.00 and that amount is included in this order.
5. The Landlords are 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 \$44.71. This amount is calculated as follows: \$1,360.00 x 12, divided by 365 days.

It is ordered that:

1. Order LTB-L-026309-22 is cancelled.
2. The tenancy between the Landlords and the Tenants is terminated. The Tenants must move out of the rental unit on or before May 5, 2023.
3. If the unit is not vacated on or before May 5, 2023, then starting May 6, 2023, the Landlords 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 Landlords on or after May 6, 2023.
5. The Tenants shall pay to the Landlords \$17,432* (**Less any payments made by the Tenants after this application was filed on February 17, 2023**). This amount represents the rent owing up to April 24, 2023, and the cost of filing the previous application.
6. The Tenants shall also pay to the Landlords \$44.71 per day for compensation for the use of the unit starting April 25, 2023 to the date the Tenants move out of the unit.
7. If the Tenants do not pay the Landlords the full amount owing on or before May 5, 2023, the Tenants will start to owe interest. This will be a simple interest calculated from May 6, 2023 at 6.00% annually on the balance outstanding.

April 24, 2023**Date Issued**

 Ian Speers

Associate Chair, Landlord and Tenant Board

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

The Tenants 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 tenants 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 November 6, 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 Landlords:**

Reason for amount owing	Period	Amount
Amount owing from previous order	Up to January 31, 2023	\$14,984.00
New Arrears	March 1, 2023 to April 24, 2023	\$2,448.00
Plus daily compensation owing for each day of occupation starting April 25, 2023		\$44.71 (per day)
Total the Tenants must pay the Landlords:		\$17,432.00 + \$44.71 per day starting April 25, 2023

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