



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

**Citation:** Schincariol v Handsor, 2023 ONLTB 32638

**Date:** 2023-04-24

**File Number:** LTB-L-075891-22

2023 ONLTB 32638 (CanLII)

**In the matter of:** 899 Hanna St E  
Windsor ON N8X4J9

**Between:** Mark Schincariol Landlord

**And**

Aaliyah Roushan Handsor Tenant

Mark Schincariol (the 'Landlord') applied for an order to terminate the tenancy and evict Aaliyah Roushan Handsor (the 'Tenant'), and also applied for an order to have the Tenant pay the rent owed and other charges, because the Tenant did not meet a condition specified in the order issued by the LTB on November 21, 2022 with respect to applications LTB-L-023107-22 (L1) and LTB-L-053111-22 (L2).

This application was heard by videoconference on April 13, 2023 as directed by a Board Endorsement, dated March 22, 2023. The Landlord attended the hearing. As of 9:56 am, the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

### **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 conditions in the order. This application was filed within 30 days of the breach.

2. On the basis of the Landlord's uncontested evidence, I find that the Tenant has not met the following conditions specified in the order:

**The Tenant failed to pay the lawful monthly rent for December 2022 on or before December 5, 2022.**

**The Tenant failed to pay the Landlord's L2 application fee on or before November 18, 2022.**

3. The Landlord's previous application, LTB-L-023107-22 (L1), includes a request for an order to have the Tenant pay the rent owed. Accordingly, the Landlord is entitled to request an order for rent owed. The Landlord's previous application, LTB-L-053111-22 (L2), does not include a request for an order to have the Tenant pay damages, daily compensation, or related administrative charges; however, I accept that the Landlord is entitled to compensation of \$186.00 for the cost of the L2 application fee.
4. As of the date of the previous order, the Tenant was required to pay \$186.00 on November 18, 2022 for compensation for the Landlord's L2 application filing fee. This amount is still owing from that order and that amount is included in this order. This order replaces the combined order of LTB-L-023107-22 and LTB-L-053111-22.
5. Since the date of the previous order on November 21, 2022, the Tenant has failed to pay all the rent that became owing for the period of December 5, 2022 to April 13, 2023, the day of this hearing. The rent arrears owed for this period are \$2,647.00.
6. The lawful monthly rent is \$1,173.00 due on the 5<sup>th</sup> day of each month.
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 \$38.56. This amount is calculated as follows: \$1,173.00 x 12, divided by 365 days.
8. The Landlord testified that he does not hold a rent deposit for this tenancy, and that the Tenant remains in possession of the unit, although he believed that she was planning to vacate the unit.
9. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act') and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
10. The Landlord testified that he was not aware of any circumstances that should be considered in a determination of whether to provide the Tenant with eviction relief, nor was the Tenant or her representative present at the hearing to provide submissions with respect to the Tenant's relief from eviction. For these reasons, it would be unfair to the Landlord to grant the Tenant with eviction relief.

**It is ordered that:**

1. Combined Order LTB-L-023107-22 and LTB-L-053111-22 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 5, 2023.
3. 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.
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 6, 2023.
5. The Tenant shall pay to the Landlord \$2,833.00. This amount includes rent arrears owing up to the date of the hearing and the Landlord's cost of filing the previous L2 application. See the attached Summary of Calculations.
6. The Tenant shall also pay to the Landlord \$38.56 per day for compensation for the use of the unit starting April 25, 2023 to the date the Tenant moves out of the unit.
7. If the Tenant does not pay the Landlord the full amount owing on or before May 5, 2023, the Tenant 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**

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Frank Ebner

Member, Landlord and Tenant Board

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

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.

**Summary of Calculations**

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

<b>Reason for amount owing</b>	<b>Period</b>	<b>Amount</b>
Amount owing from previous order	Up to November 21, 2022	\$186.00
New Arrears	November 22, 2022 to April 13, 2023	\$2,647.00
Plus daily compensation owing for each day of occupation starting April 25, 2023		\$38.56 (per day)
<b>Total the Tenant must pay the Landlord:</b>		<b>\$2,833.00 +\$38.56 per day starting April 25, 2023</b>