



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

Citation: Prasad v Brennan, 2023 ONLTB 32356

Date: 2023-04-20

File Number: LTB-L-013855-23

In the matter of: 3, 4918 MCRAE ST
NIAGARA FALLS ON L2E1N8

Between: Anand Prasad Landlord

And

Alexandra Leigh Brennan Tenants
Georges Joseph Piette

Anand Prasad (the 'Landlord') applied for an order to terminate the tenancy and evict Alexandra Leigh Brennan and Georges Joseph Piette (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 February 15, 2023, with respect to application LTB-L-042016-22.

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 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 condition specified in the order: **The Tenants failed to pay \$2636 towards arrears, on or before January 20, 2022.**
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 Landlord is entitled to request an order for the payment of arrears owing.

4. The Tenants were required to pay \$5,636.00 for rent arrears and the application filing fee in the previous order. The amount that is still owing from that order is \$1.00 and that amount is included in this order.
5. Since the date of the previous order, the Tenants have failed to pay the full rent that became owing for the period from February 1, 2023, to February 28, 2023.
6. The Landlord collected a rent deposit of \$1,400.00 from the Tenants and this deposit is still being held by the Landlord.
7. Interest on the rent deposit is owing to the Tenants for the period from August 1, 2020, to April 20, 2023.
8. The amount of the rent deposit and interest on the rent deposit is applied to the amount the Tenants are required to pay.
9. 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 \$49.32. This amount is calculated as follows: \$1,500.00 x 12, divided by 365 days.

It is ordered that:

1. Order 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 1, 2023.
3. If the unit is not vacated on or before May 1, 2023, then starting May 2, 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 2, 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 \$1,439.18* **(Plus any payments made by the Tenants after this application was filed on February 12, 2023).**
6. However, the Landlord is authorized to deduct the following from the amount the Landlord owes the Tenants: \$49.32 per day for compensation for the use of the unit starting April 21, 2023, to the date the Tenant moves out of the unit.
7. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.

April 20, 2023

Date Issued

Michael Di Salle

Member, Landlord and Tenant Board

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

The Tenants have until April 30, 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 April 30, 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 2, 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 owing from previous order	Up to February 28, 2023	\$1.00
Less the rent deposit:		-\$1,400.00
Less the interest owing on the rent deposit	August 1, 2020 to April 20, 2023	-\$40.18
Plus daily compensation owing for each day of occupation starting April 21, 2023		\$49.32 (per day)
Total the Tenant must pay the Landlord:		- \$1,439.18 +\$49.32 per day starting April 21, 2023

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