



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

**Citation:** Wigwamen Incorporated v Maclean, 2023 ONLTB 31860

**Date:** 2023-04-18

**File Number:** LTB-L-012529-23

**In the matter of:** 98 HILTZ AVE TORONTO  
ON M4L2N5

**Between:** WIGWAMEN INCORPORATED Landlord

**AND**

CATHERINE MACLEAN Tenants  
NICHOLAS MACLEAN

On February 7, 2023, Wigwamen Incorporated (the 'Landlord') applied for an order to terminate the tenancy and evict Catherine Maclean and Nicholas Maclean (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 13, 2023 with respect to application LTB-L025488-22.

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 the lawful rent for February 2023 in full 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 Landlord is entitled to request an order for the payment of arrears owing.

4. The Tenants were required to pay \$3,018.00 for rent arrears and the application filing fee in the previous order. The amount that is still owing from that order is \$1,718.00 and that amount is included in this order. This order replaces order LTB-L-025488-22.
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.

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6. 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 \$33.30. This amount is calculated as follows: \$1,013.00 x 12, divided by 365 days.

**It is ordered that:**

1. Order LTB-L-025488-22 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 April 29, 2023.
3. If the unit is not vacated on or before April 29, 2023, then starting April 30, 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 April 30, 2023.
5. The Tenants shall pay to the Landlord \$4,000.35\* (less any payments made by the Tenants after this application was filed on February 7, 2023). This amount represents the rent owing up to April 18, 2023.
6. The Tenants shall also pay to the Landlord \$33.30 per day for compensation for the use of the unit starting April 19, 2023 to the date the Tenants move out of the unit.
7. If the Tenants do not pay the Landlord the full amount owing on or before April 29, 2023, the Tenants will start to owe interest. This will be a simple interest calculated from April 30, 2023, at 6.00% annually on the balance outstanding.

**April 18, 2023**

**Date Issued**

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Michael Di Salle

Member, Landlord and Tenant Board

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

The Tenants have until April 28, 2023 to file a motion with the LTB to set aside the order under s. 78(9) of the Act. If the Tenants file the motion by April 28, 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 31, 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.

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**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	\$1,718.00
New Arrears	February 1, 2023 to April 18, 2023	\$2,282.35
Plus daily compensation owing for each day of occupation starting April 19, 2023		\$33.30 (per day)
<b>Total the Tenants must pay the Landlord:</b>		<b>\$4,000.35 +\$33.30 per day starting April 19, 2023</b>