



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

**Citation:** Zhang v Dann, 2023 ONLTB 29532

**Date:** 2023-04-04

**File Number:** LTB-L-009093-23

**In the matter of:** 73 FISHLEIGH DR  
SCARBOROUGH ON M1N1H3

**Between:** Hengbin Zhang and Phoebe Peihong Wang Landlord

**And**

Sarah Jean Dann Tenant

Hengbin Zhang and Phoebe Peihong Wang (the 'Landlord') applied for an order to terminate the tenancy and evict Sarah Jean Dann (the 'Tenant') and for an order to have the Tenant pay the rent they owe because the Tenant did not meet a condition specified in the order issued by the LTB on January 27, 2023 with respect to application LTB-L-070908-22.

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 conditions specified in the order:

**The Tenant failed to pay to the Landlord the lawful rent for January 2023 in full on or before January 1, 2023.**

**The Tenant also failed to pay to the Landlord \$15,000.00 on or before January 9, 2023, towards arrears of rent.**

3. The previous application includes a request for an order for the payment of arrears of rent and the order requires the Tenant 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 Tenant was required to pay \$35,000.00 for rent arrears, and the application filing fee in the previous order. The amount that is still owing from that order is \$35,000.00 and by

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virtue of the Tenant's default, the amount due has been accelerated and made payable by subparagraph 4 of the previous order.

5. Because the past arrears addressed by the previous order are now due and payable under the terms of the previous order, and because the Board's monetary jurisdictional limit is \$35,000.00 and including them in this order would bring the amount awarded in excess of the Board's monetary jurisdiction, the previous order LTB-L-070908-22 is not cancelled by this order, and this money awarded in this order addresses only the arrears that have accrued since the previous order.
6. Since the date of the order, the Tenant has failed to pay the full rent that became owing for the period from January 1, 2023 to January 31, 2023.
7. The Landlord collected a rent deposit of \$3,500.00 from the Tenant and this deposit is still being held by the Landlord.
8. Interest on the rent deposit is owing to the Tenant for the period from May 22, 2020 to April 4, 2023.
9. The amount of the rent deposit and interest on the rent deposit is applied to the amount the Tenant is required to pay.
10. 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 \$115.07. This amount is calculated as follows: \$3,500.00 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 April 15, 2023.
2. If the unit is not vacated on or before April 15, 2023, then starting April 16, 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 April 16, 2023.
4. The Tenant shall pay to the Landlord \$7,283.72\* (**Less any payments made by the Tenants after this application was filed on January 29, 2023**). This amount represents the rent owing up to April 4, 2023, and the cost of filing the previous application, less the rent deposit and interest the Landlord owes on the rent deposit.
5. The Tenant shall also pay to the Landlord \$115.07 per day for compensation for the use of the unit starting April 5, 2023 to the date the Tenant moves out of the unit.
6. If the Tenant does not pay the Landlord the full amount owing on or before April 15, 2023, the Tenant will start to owe interest. This will be a simple interest calculated from April 16, 2023 at 6.00% annually on the balance outstanding.

**April 4, 2023**  
**Date Issued**

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Sonia Anwar-Ali  
Member, Landlord and Tenant Board

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

The Tenant has until April 14, 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 14, 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 16, 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:**

<b>Reason for amount owing</b>	<b>Period</b>	<b>Amount</b>
Amount owing for New Arrears to the date of this order		\$10,960.28
Less the rent deposit:		-\$3,500.00
Less the interest owing on the rent deposit	May 22, 2020 to April 04, 2023	-\$176.56
Plus daily compensation owing for each day of occupation starting April 05, 2023		\$115.07 (per day)
<b>Total the Tenant must pay the Landlord:</b>		<b>\$7,283.72 + \$115.07 per day starting April 05, 2023</b>

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