



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

Citation: Capreit Limited Partnership v Lungah, 2023 ONLTB 29253

Date: 2023-04-03

File Number: LTB-L-022705-23

In the matter of: 310, 366 OXFORD ST W
LONDON ON N6H1T3

Between: Capreit Limited Partnership Landlord

And

Tawaka Muzamhindo and Zanele Lungah Tenants

Capreit Limited Partnership (the 'Landlord') applied for an order to terminate the tenancy and evict Tawaka Muzamhindo and Zanele Lungah (the 'Tenants') 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 8, 2023, with respect to application LTB-L-023988-22.

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 full amount of \$300 towards arrears, on or before February 15, 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 \$3,603.52 for rent arrears, and the application filing fee in the previous order. The amount that is still owing from that order is \$3,303.52 and that amount is included in this order.
5. 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 \$38.67. This amount is calculated as follows: \$1,176.32 x 12, divided by 365 days.

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It is ordered that:

1. Order LTB-L-023988-22 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 14, 2023.
3. If the unit is not vacated on or before April 14, 2023, then starting April 15, 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 15, 2023.
5. The Tenants shall pay to the Landlord \$3,303.52* (Less any payments made by the Tenants after this application was filed on March 10, 2023). This amount represents the rent owing up to April 03, 2023, and the cost of filing the application, less the rent deposit and interest the Landlord owes on the rent deposit.
6. The Tenants shall also pay to the Landlord \$38.67 per day for compensation for the use of the unit starting April 4, 2023, to the date the Tenant moves out of the unit.
7. If the Tenants do not pay the Landlord the full amount owing on or before April 14, 2023, the Tenants will start to owe interest. This will be a simple interest calculated from April 15, 2023, at 6.00% annually on the balance outstanding.

April 3, 2023

Date Issued

Elle Venhola

Member, Landlord and Tenant Board

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

The Tenants have until April 13, 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 13, 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 15, 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 Tenant must pay the Landlord:

<u>Reason for amount owing</u>	<u>Period</u>	<u>Amount</u>
Amount owing from previous order	Up to January 31, 2023	\$3,303.52
Plus, daily compensation owing for each day of occupation starting April 04, 2023		\$38.67 (per day)
Total the Tenant must pay the Landlord:		\$3,303.52 +\$38.67 per day starting April 04, 2023

2023 ONLTB 29253 (CanLII)