



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

Citation: Q RES V OPERATING LP v Wardle, 2023 ONLTB 27761

Date: 2023-03-27

File Number: LTB-L-004435-23

In the matter of: 312, 273 VINE ST
ST CATHARINES ON L2M7P7

Between: Q RES V OPERATING LP Landlord

And

Doug Wardle Tenants
Shirley Wardle

Q RES V OPERATING LP (the 'Landlord') applied for an order to terminate the tenancy and evict Doug Wardle and Shirley Wardle (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 September 21, 2022 with respect to application LTB-L-013273-22.

This application was decided without a hearing being held.

Determinations:

1. The previous 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 conditions specified in the order: **The Tenants failed to pay \$800.00 representing arrears on December 15, 2022. The Tenant failed to pay January 2023 lawful rent in full on or before January 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 was required to pay \$5,468.56 for rent arrears, and the application filing fee in the previous order. The amount that is still owing from that order is \$3,349.43 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 October 1, 2022 to January 31, 2023.

6. The Landlord collected a rent deposit of \$1,515.66 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 December 01, 2021 to March 27, 2023.
8. The amount of the rent deposit and interest on the rent deposit is applied to the amount the Tenants is required to pay.
9. The Landlord is entitled to daily compensation from the day after this order is issued to the date the Tenants moves out of the unit at a daily rate of \$49.55. This amount is calculated as follows: \$1,507.04 x 12, divided by 365 days.

It is ordered that:

1. Order LTB-L-013273-22 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 07, 2023.
3. If the unit is not vacated on or before April 07, 2023, then starting April 08, 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 08, 2023.
5. The Tenants shall pay to the Landlord \$4,757.74 (less any amounts paid to the Landlord after the declaration made in support of this application was made on January 13, 2023). This amount represents the rent owing up to March 27, 2023, and the cost of filing the previous application, less the rent deposit and interest the Landlord owes on the rent deposit.
6. However, the Landlord is authorized to deduct the following from the amount the Landlord owes the Tenants: \$49.55 per day for compensation for the use of the unit starting March 28, 2023 to the date the Tenants moves out of the unit.
7. The Landlord or the Tenants shall pay to the other any sum of money that is owed as a result of this order.

March 27, 2023

Date Issued

Vladislav Shustov

Member, Landlord and Tenants Board

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

The Tenants have until April 06, 2023 to file a motion with the LTB to set aside the order under s. 78(9) of the Act. If the Tenants files the motion by April 06, 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 08, 2023 if the order have not been filed on or before this date with the Court Enforcement Office (Sheriff) that have territorial jurisdiction where the rental unit is located.

* Refer to the attached Summary of Calculations.

Summary of Calculation**Amount the Tenants must pay the Landlord:**

Reason for amount owing	Period	Amount
Amount owing from previous order	Up to September 30, 2022	\$3,349.43
New Arrears	October 1, 2022 to March 27, 2023	\$2,951.93
Less the rent deposit:		-\$1,515.66
Less the interest owing on the rent deposit	December 01, 2021 to March 27, 2023	-\$27.96
Plus daily compensation owing for each day of occupation starting March 28, 2023		\$49.55 (per day)
Total the Tenants must pay the Landlord:		\$4,757.74 + \$49.55 per day starting March 28, 2023

2023 ONLTB 27761 (CanLI)