



## **Order under Section 78 Residential Tenancies Act, 2006**

**Citation:** Millhouse Properties Inc v Hotchkiss, 2023 ONLTB 26336

**Date:** 2023-03-27

**File Number:** LTB-L-079891-22

**In the matter of:** Upper, 292 Fergus Street South Mount  
Forest ON N0G2L2

**Between:** Millhouse Properties Inc Landlord

**And**

Holly Hotchkiss Tenants  
Justin Walls

Millhouse Properties Inc (the 'Landlord') applied for an order to terminate the tenancy and evict Holly Hotchkiss and Justin Walls (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 August 31, 2022 with respect to application LTB-L-028446-22.

On February 9, 2023 the Board issued an endorsement to the parties directing the application to a hearing as it was not clear on it's face how much the Tenants were owing in arrears.

This application was heard by way of videoconference on March 6, 2023. The Landlord's legal representative Robert Rose, the Landlord's agent Andrew Millard and the Tenant Justin Walls attended the hearing.

### **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 conditions specified in the order: **The Tenants failed to pay the lawful monthly rent for November 2022 on or before November 1, 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 \$12,686.50 for rent arrears, and the application filing fee in the previous order. The amount that is still owing from that order is \$10,544.06 and that amount is included in this order. This order replaces order LTB-L-028446-22.
5. Since the date of the previous order, the Tenants have failed to pay the full rent that became owing for the period from December 1, 2022 to February 1, 2022.
6. The Landlord collected a rent deposit of \$936.00 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 October 02, 2021 to February 1, 2023 in the amount of \$15.02.
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 Tenants vacated the rental unit on February 1, 2023. The tenancy is terminated as of this date.
10. The Tenants have paid \$6,853.21 since the previous order was issued.
11. At the hearing, the Tenant Justin Walls argued that he should only be responsible for half of the rent arrears owing. The documentary evidence before the Board and the prior order issued on consent confirm that this is a joint and several tenancy. As such, both Tenants are jointly responsible for the arrears owing.

**It is ordered that:**

1. Order LTB-L-028446-22 is cancelled.
2. The tenancy between the Landlord and the Tenants is terminated as of February 1, 2023, the date the Tenants vacated the rental unit.
3. The Tenants shall pay to the Landlord \$9,593.04\*. This amount represents the rent owing up to March 27, 2023, the cost of filling the application, less the rent deposit and interest the Landlord owes on the rent deposit.

4. If the Tenants do not pay the Landlord the full amount owing on or before April 07, 2023, the Tenants will start to owe interest. This will be a simple interest calculated from April 8, 2023 at 5.00% annually on the balance outstanding.

**March 27, 2023** \_\_\_\_\_ **Date Issued**

Fabio Quattrociochi

Member, Landlord and Tenant Board

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

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.

\* 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 from previous order	Up to August 31, 2022	\$12,686.50
New Arrears	to February 1, 2023	-\$2,142.44
New NSF cheque charges and related administration charges		\$0.00
Less the rent deposit:		-\$936.00
Less the interest owing on the rent deposit	October 02, 2021 to March 27, 2023	-\$15.02
<b>Total the Tenant must pay the Landlord:</b>		<b>\$9,593.04</b>

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