



**Order under Section 69 / 88.2
Residential Tenancies Act, 2006**

Citation: Clarke v Johnstone, 2023 ONLTB 26079

Date: 2023-03-21

File Number: LTB-L-030864-22

In the matter of: 144 Candlebrook Drive
Whitby, ON L1R 2V8

Between: Choyann Clarke Landlord

And

Cody Avann Tenants
Lindsay Morrison
Peter Johnstone
Valerie Avann

Choyann Clarke (the 'Landlord') applied for an order to terminate the tenancy and evict Cody Avann, Lindsay Morrison, Peter Johnstone and Valerie Avann (the 'Tenants') because the Landlord in good faith requires possession of the rental unit for the purpose of residential occupation for at least one year.

The Landlord also claimed compensation for each day the Tenants remained in the unit after the termination date.

Further, the Landlord also applied for an order requiring the Tenants to pay the Landlord's reasonable out-of-pocket expenses that are the result of the Tenants' failure to pay utility costs they were required to pay under the terms of the tenancy agreement.

This application was heard by videoconference on February 23, 2023.

Only the Landlord and the Landlord's Legal Representative Jenique Thombs attended the hearing.

As of 10:13 am, the Tenants were not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for the claim for compensation in the application. Therefore, the Tenants will be ordered to pay to the Landlord \$4,808.52 for water expenses.

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2. The Landlord testified that the Tenants had already vacated the unit as of the date of the hearing and wished to only proceed with her application under s. 88.1 of the *Residential Tenancies Act, 2006* (the 'Act').
3. The Tenants were in possession of the rental unit on the date the application was filed.
4. Entered into evidence was a copy of the lease that outlined that the Tenants were responsible to pay for the unit's water costs.
5. Also entered into evidence were water and sanitary sewer bill invoices from The Regional Municipality of Durham ranging from February 24, 2020 to November 16, 2022.
6. The Landlord testified that as a result of the Tenant's failure to pay the invoices as outlined, the costs were added to the Landlord's property tax bill. The Landlord's Tax bills from 2021 and 2022 were entered into evidence.
7. On the basis of the Landlord's uncontested evidence, I am satisfied on a balance of probabilities that the Tenants failed to pay water costs that they were required to pay under the terms of the tenancy agreement.
8. The Landlord has incurred reasonable out-of-pocket expenses of \$4,808.52 as a result of the Tenants' failure to pay water costs.

It is ordered that:

9. The Tenants shall pay to the Landlord \$4,278.39, which represents the reasonable out-of-pocket expenses the Landlord has incurred or will incur as a result of the unpaid utility costs.
10. The Tenants shall also pay to the Landlord \$186.00 for the cost of filing the application.
11. The total amount the Tenants owe the Landlord
12. If the Tenants do not pay the Landlord the full amount owing on or before April 1, 2023, the Tenants will start to owe interest. This will be simple interest calculated from April 2, 2023 at 5.00% annually on the balance outstanding.

March 21, 2023

Date Issued

Jagger Benham

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.

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