



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

**Citation:** 2895 Bathurst Co-ownership Holdings Inc. v Zomora, 2023 ONLTB 26360

**Date:** 2023-03-20

**File Number:** LTB-L-081222-22

**In the matter of:** 107, 2895 BATHURST ST NORTH  
YORK ON M6B3A8

**Between:** 2895 Bathurst Co-ownership Holdings Inc. Landlord

**And**

Madja Potes Tenants  
Maelena Zomora  
Vincente Dagami

2895 Bathurst Co-ownership Holdings Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Madja Potes, Maelena Zomora and Vincente Dagami (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 December 5, 2022 with respect to application TNL37168-22-SA.

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 were 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 December 2022 lawful rent on or before December 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 \$3,106.95 for rent arrears, and the application filing fee in the previous order. The amount that is still owing from that order is \$2,606.95 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 December 1, 2022 to December 31, 2022.
6. The Landlord collected a rent deposit of \$1,300.00 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 4, 2017 to March 20, 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 \$45.80. This amount is calculated as follows:  $\$1,393.05 \times 12$ , divided by 365 days.

**It is ordered that:**

1. Order TNL-37168-22-SA 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 March 31, 2023.
3. If the unit is not vacated on or before March 31, 2023, then starting April 01, 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 01, 2023.
5. The Tenants shall pay to the Landlord \$6,289.71 (less any amounts paid to the Landlord after the declaration in support of this application was made on December 23, 2022). This amount represents the rent owing up to March 20, 2023, and the cost of filling the application, less the rent deposit and interest the Landlord owes on the rent deposit.
6. The Tenants shall also pay to the Landlord \$45.80 per day for compensation for the use of the unit starting March 21, 2023 to the date the Tenants moves out of the unit.
7. If the Tenants do not pay the Landlord the full amount owing on or before March 31, 2023, the Tenants will start to owe interest. This will be a simple interest calculated from April 1, 2023 at 5.00% annually on the balance outstanding.

**March 20, 2023**

**Date Issued**

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**Ian Speers**

Associate Chair, Landlord and Tenants Board

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

The Tenants have until March 30, 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 March 30, 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 01, 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:**

<b>Reason for amount owing</b>	<b>Period</b>	<b>Amount</b>
Amount owing from previous order	Up to November 30, 2022	\$2,606.95
New Arrears	December 1, 2022 to March 20, 2023	\$5,095.15
New NSF cheque charges and related administration charges		\$0.00
Less the rent deposit:		-\$1,300.00
Less the interest owing on the rent deposit	October 04, 2017 to March 20, 2023	-\$112.39
Plus daily compensation owing for each day of occupation starting March 21, 2023		\$45.80 (per day)
<b>Total the Tenants must pay the Landlord:</b>		<b>\$6,289.71 +\$45.80 per day starting March 21, 2023</b>