



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

Citation: Toronto Community Housing Corp. v Avila Guerra, 2023 ONLTB 25536

Date: 2023-03-14 **File Number:**
LTB-L-005153-23-EX

In the matter of: 511, 61 Pelham Park Gardens Toronto
ON M6N 1A8

Between: Toronto Community Housing Corp. Landlord

and

Argel Avila Guerra Tenant

Toronto Community Housing Corp. (the 'Landlord') applied for an order to terminate the tenancy and evict Argel Avila Guerra (the 'Tenant') and for an order to have the Tenant pay compensation for damage they owe because the Tenant did not meet a condition specified in the order issued by the LTB on September 14, 2022 with respect to application TSL-20499-21.

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 Tenant to terminate the tenancy and evict the Tenant if the Tenant does not meet certain condition(s) in the order. This application was filed within 30 days of the breach.
2. I find that the Tenant has not met the following conditions specified in the order:

The Tenant committed an illegal act of mischief and substantially interfered with the reasonable enjoyment, lawful rights or privileges of the Landlord or another tenant.

- 3. The previous application includes a request for an order for compensation for damage and the order requires the Tenant to pay an amount for damage. Accordingly, the Landlord is entitled to request an order for compensation for damage.
- 4. The Tenant was not required to pay \$1,094.97 for compensation for damage in the previous order, but was cautioned that it would be ordered if there was a breach. The \$186.00 application filing fee from the previous order is now included in this order. This order replaces order TSL-20499-21.

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- 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 \$3.78. This amount is calculated as follows: \$115.00 x 12, divided by 365 days.

It is ordered that:

- 1. Order TSL-20499-21 is cancelled.
- 2. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before March 25, 2023.
- 3. If the unit is not vacated on or before March 25, 2023, then starting March 26, 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 March 26, 2023.
- 5. The Tenant shall pay to the Landlord \$1,280.97*. This amount represents the unpaid compensation for damage and the previous application filing fee.
- 6. The Tenant shall also pay to the Landlord \$3.78 per day for compensation for the use of the unit starting March 15, 2023 to the date the Tenant moves out of the unit.
- 7. If the Tenant does not pay the Landlord the full amount owing on or before March 25, 2023, the Tenant will start to owe interest. This will be a simple interest calculated from March 26, 2023 at 5.00% annually on the balance outstanding.

March 14, 2023 _____ **Date Issued**
 Curtis Begg

Member, Landlord and Tenant Board

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

The Tenant has until March 24, 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 March 24, 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 September 26, 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:

| Reason for amount owing | Period | Amount |
|--|---------------|---|
| Amount of compensation for damages and previous application filing fee owing from previous order | | \$1,280.97 |
| New NSF cheque charges and related administration charges | | \$0.00 |
| | | |
| | | |
| Plus daily compensation owing for each day of occupation starting March 15, 2023 | | \$3.78 (per day) |
| Total the Tenant must pay the Landlord: | | \$1,094.97 +\$3.78 per day starting March 15, 2023 |

2023 ONLTB 25536 (CanLII)