



**Order under Section 78(11)
Residential Tenancies Act, 2006**

Citation: Equiton Residential Income Fund LP v Beckford, 2023 ONLTB 24065

Date: 2023-03-08 **File Number:**
LTB-L-073545-22-SA

In the matter of: 207, 100 OLD CARRIAGE DR KITCHENER
ON N2P1Z3

Between: Equiton Residential Income Fund LP Landlord

And

Janiel Beckford Tenant

Equiton Residential Income Fund LP (the 'Landlord') applied for an order to terminate the tenancy and evict Janiel Beckford (the 'Tenant') and for an order to have the Tenant pay the rent they owe because the Tenant did not meet a condition specified in the order issued by the LTB on October 6, 2022 with respect to application LTB-L-017059-22.

The Landlord's application was resolved by order LTB-L-073545-22, issued on January 18, 2023. This order was issued without a hearing being held.

The Tenant filed a motion to set aside order LTB-L-073545-22.

The motion was heard by videoconference on February 21, 2023.

The Landlord's legal representative, Daniel Abraham, and the Tenant attended the hearing.

Determinations:

1. The Tenant agreed that she did not meet a condition specified in the order issued by the LTB on October 6, 2022 with respect to application LTB-L-017059-22, but sought relief under subsection 78(11)(b) on the basis that the arrears and costs were almost paid off.
2. The parties agreed that the arrears and costs owing up to February 28, 2023 are \$2,941.88.
3. The Tenant states that she made an online payment to the Landlord in the amount of \$2,700.00, however this payment has not yet been processed by the Landlord. This payment shall be credited towards the amount owing in paragraph two if the payment goes through.
4. I am satisfied, having regard to all the circumstances, that it would not be unfair to set aside order LTB-L-073545-22 under subsection 78(11)(b) and to amend order LTB-L-017059-22 issued on October 6, 2022 under subsection 78(12).
5. The Landlord requested that the Board order the Tenant to pay the Landlord for the Sheriff fees incurred by the Landlord and for additional NSF fees, however the Board does not have jurisdiction to do so in this case.

It is ordered that:

1. Order LTB-L-073545-22 issued on January 18, 2023 is cancelled.
2. Order LTB-L-017059-22 issued on October 6, 2022 is cancelled and replaced by this order.
3. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.
4. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$2,941.88 if the payment is made on or before February 28, 2023.
5. The Tenant may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenant has paid the full amount owing as ordered plus any additional rent that became due after February 28, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.
6. **If the Tenant does not pay the amount required to void this order the Tenant must move out of the rental unit on or before February 28, 2023**
7. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$2,293.97. This amount includes rent arrears owing up to February 28, 2023. The rent deposit and interest the Landlord owes on the rent deposit are deducted from the amount owing by the Tenant. See Schedule 1 for the calculation of the amount owing.

8. The Tenant shall also pay the Landlord compensation of \$21.53 per day for the use of the unit starting March 1, 2023 until the date the Tenant moves out of the unit.
9. If the Tenant does not pay the Landlord the full amount owing on or before March 19, 2023, the Tenant will start to owe interest. This will be simple interest calculated from March 20, 2023 at 5.00% annually on the balance outstanding.
10. If the unit is not vacated on or before February 28, 2023, then starting March 1, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
11. 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 1, 2023.

March 8, 2023

Date Issued

Richard Ferriss

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.

In accordance with section 81 of the Act, the part of this order relating to the eviction expires on September 1, 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.

Schedule 1
SUMMARY OF CALCULATIONS

A. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before February 28, 2023

Rent Owing To February 28, 2023	\$2,941.88
Application Filing Fee	\$0.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlord owes the Tenant for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total the Tenant must pay to continue the tenancy	\$2,941.88

B. Amount the Tenant must pay if the tenancy is terminated

Rent Owing To February 28, 2023	\$2,941.88
Application Filing Fee	\$0.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$637.60
Less the amount of the interest on the last month's rent deposit	- \$10.31
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total amount owing to the Landlord	\$2,293.97
Plus daily compensation owing for each day of occupation starting March 1, 2023	\$21.53 (per day)