



## **Order under Section 69 Residential Tenancies Act, 2006**

**Citation:** Lake Promenade Apartments Limited v Gunton, 2023 ONLTB 22390

**Date:** 2023-03-02

**File Number:** LTB-L-036588-22

**In the matter of:** 215-230 Lake Promenade  
Etobicoke, ON M8W 1B1

**Between:** Lake Promenade Apartments Limited Landlord

**And**

Kevin Lindsay Gunton Tenant

Lake Promenade Apartments Limited (the 'Landlord') applied for an order to terminate the tenancy and evict Kevin Lindsay Gunton (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on February 13, 2023.

Only the Landlord's Legal Representative Howard Levenson attended the hearing.

As of 9:48 am, the Tenant was 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. The Landlord served the Tenant with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). The Tenant did not void the notice by paying the amount of rent arrears owing by the termination date in the N4 Notice or before the date the application was filed.
2. As of the hearing date, the Tenant was still in possession of the rental unit.
3. The lawful rent is \$1,233.77. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$40.56. This amount is calculated as follows: \$1,233.77 x 12, divided by 365 days.
5. The Tenant has paid \$7,720.00 to the Landlord since the application was filed.
6. The rent arrears owing to February 28, 2023 are \$2,587.61.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

8. The Landlord collected a rent deposit of \$1,219.15 from the Tenant and this deposit is still being held by the Landlord. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.
9. Interest on the rent deposit, in the amount of \$21.54 is owing to the Tenant for the period from June 1, 2022 to February 13, 2023.

### *Section 83 Considerations*

10. The Landlord's Legal Representative submitted that he believes the Tenant paid the entirety of the arrears on February 8, 2023 however, the payment had not cleared by the date of the hearing. The Landlord's Legal Representative requested that the Tenant be given until the end of month to void the order. Due to the issuance of the order, the voiding period will be extended until the end of March to determine whether or not the order has been voided.
11. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would not be unfair to postpone the eviction until March 31, 2023 pursuant to subsection 83(1)(b) of the Act.

### **It is ordered that:**

12. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.
13. **The Tenant may void this order and continue the tenancy by paying to the Landlord:**
  1. \$4,007.38 if the payment is made on or before March 31, 2023. See Schedule 1 for the calculation of the amount owing.
14. 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 March 31, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.
15. **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 March 31, 2023.**
16. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$826.43. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. 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.
17. The Tenant shall also pay the Landlord compensation of \$40.56 per day for the use of the unit starting February 14, 2023 until the date the Tenant moves out of the unit.
18. If the Tenant does not pay the Landlord the full amount owing on or before March 13, 2023, the Tenant will start to owe interest. This will be simple interest calculated from March 14, 2023 at 5.00% annually on the balance outstanding.

19. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.
20. If the unit is not vacated on or before March 31, 2023, then starting April 1, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
21. 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 1, 2023.

**March 2, 2023**

**Date Issued**

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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.

In accordance with section 81 of the Act, the part of this order relating to the eviction expires on October 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 March 31, 2023**

Rent Owing To March 31, 2023	\$11,541.38
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$7,720.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$4,007.38</b>

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

Rent Owing To Hearing Date	\$9,601.11
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$7,720.00
<b>Less</b> the amount of the last month's rent deposit	- \$1,219.15
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$21.54
<b>Total amount owing to the Landlord</b>	<b>\$826.43</b>
Plus daily compensation owing for each day of occupation starting February 14, 2023	\$40.56 (per day)