



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

**Citation:** Fick v Moore, 2023 ONLTB 20529

**Date:** 2023-02-15

**File Number:** LTB-L-079119-22

**In the matter of:** 1, 17 PERCY STREET  
MARKWORTH ONTARIO K0K3K0

**Between:** Nigel Fick and Sarah Deas Landlords

**And**

Michael Moore and Tanya Volpe Tenants

Nigel Fick and Sarah Deas (the 'Landlords') applied for an order to terminate the tenancy and evict Michael Moore and Tanya Volpe (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 July 22, 2022 with respect to application LTB-L-007347-22.

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 Tenants to terminate the tenancy and evict the Tenants if the Tenants do not meet certain condition(s) in the order. This application was 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 did not pay the lawful rent for November 2022 in full on or before November 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 Landlords are entitled to request an order for the payment of arrears owing.
4. The Tenants were required to pay \$1,701.00 for rent arrears, and the application filing fee in the previous order. The amount that is still owing from that order is \$501.00 and that amount is included in this order. This order replaces order LTB-L-007347-22.

5. Since the date of the previous order, the Tenants have failed to pay the full rent that became owing for the period from November 1, 2022 to November 30, 2022.
6. The Landlords collected a rent deposit of \$2,200.00 from the Tenants and this deposit is still being held by the Landlords.
7. Interest on the rent deposit is owing to the Tenants for the period from January 24, 2021 to February 15, 2023.
8. The amount of the rent deposit and interest on the rent deposit is applied to the amount the Tenants are required to pay.
9. The Landlords are entitled to daily compensation from the day after this order is issued to the date the Tenants move out of the unit at a daily rate of \$72.33. This amount is calculated as follows: \$2,200.00 x 12, divided by 365 days.

**It is ordered that:**

1. Order LTB-L-007347-22 is cancelled.
2. The tenancy between the Landlords and the Tenants is terminated. The Tenants must move out of the rental unit on or before February 26, 2023.
3. If the unit is not vacated on or before February 26, 2023, then starting February 27, 2023, the Landlords 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 Landlords on or after February 27, 2023.
5. The Tenants shall pay to the Landlords \$4,104.54\* (Less any payments made by the Tenants after this application was filed on November 10, 2022). This amount represents the rent owing up to February 15, 2023, less the rent deposit and interest the Landlords owe on the rent deposit.
6. The Tenants shall also pay to the Landlord \$72.33 per day for compensation for the use of the unit starting February 16, 2023 to the date the Tenants move out of the unit.
7. If the Tenants do not pay the Landlords the full amount owing on or before February 26, 2023, the Tenants will start to owe interest. This will be a simple interest calculated from February 27, 2023 at 5.00% annually on the balance outstanding.

**February 15, 2023**

**Date Issued**

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Vladislav Shustov

Member, Landlord and Tenants Board

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

The Tenants have until February 25, 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 February 25, 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 August 27, 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.

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 July 31, 2022                   | \$501.00   |
| New Arrears   | November 1, 2022 to February 15, 2023 | \$5,884.95   |
| Less the rent deposit:  |                                       | -\$2,200.00  |
| Less the interest owing on the rent deposit   | January 24, 2021 to February 15, 2023 | -\$81.41   |
| Plus daily compensation owing for each day of occupation starting February 16, 2023 |                                       | \$72.33 (per day)  |
| <b>Total the Tenants must pay the Landlord:</b>                                     |                                       | <b>\$4,104.54 + \$72.33 per day starting February 16, 2023</b> |

2023 ONLTB 20529 (CanLI)