



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

Citation: Ianni v Darosa, 2023 ONLTB 17568

Date: 2023-02-13

File Number: LTB-L-070122-22

In the matter of: BSMT, 907 Glencairn Avenue
North York Ontario M6B2A6

Between: Antonio Ianni Landlord

And

Antonio Darosa Tenant

Antonio Ianni (the 'Landlord') applied for an order to terminate the tenancy and evict Antonio Darosa (the 'Tenant') and for an order to have the Tenant pay the rent and compensation the Tenant owes because the Tenant failed to meet a condition specified in the order by the Board on September 16, 2022 with respect to application LTB-L-010220-22.

This application was heard in Toronto on January 19, 2023.

Only the Landlord attended the hearing. The Tenant did not attend although properly served, therefore the hearing proceeded based only on the Landlord's evidence.

Determinations:

1. The order provided that the Landlord could apply to the Board 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 did not meet certain condition(s) specified in the settlement.
2. I find that the Tenant has not met the following condition specified in the settlement: The Tenant did not pay October 2022 rent on or before October 1, 2022.
3. The previous application included a request for an order for the payment of arrears of rent. The resulting order required the Tenant to pay rent or some or all of the arrears of rent. Accordingly, in addition to eviction, the Landlord is entitled to request an order for the payment of arrears of rent and compensation.
4. The amount that is still owing, according to the terms of the order, for arrears of rent and NSF cheque charges and the costs related to the application fee for the previous application is \$397.40.

5. Since the date of the order, the Tenant has paid the full rent that became owing for the period from October 1, 2022 to January 31, 2023.
6. 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
7. The Tenant did not attend this or the first hearing held on August 29, 2022 to provide submissions about to preserve his tenancy.

It is ordered that:

1. Order LTB-L-010220-22 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 February 24, 2023.
3. If the unit is not vacated on or before February 24, 2023, then starting February 25, 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 February 25, 2023.
5. The Tenant shall pay to the Landlord \$397.40*. This amount represents the rent owing up to January 31, 2023.
6. The Tenant shall also pay to the Landlord \$28.28 per day for compensation for the use of the unit starting February 1, 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 February 24, 2023, the Tenant will start to owe interest. This will be a simple interest calculated from February 25, 2023 at 5.00% annually on the balance outstanding.

February 13, 2023

Date Issued

Sandra Macchione

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 August 24, 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.