



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

Citation: Tavaréz v Rheault, 2023 ONLTB 20612

Date: 2023-02-10

File Number: LTB-L-078451-22

In the matter of: Main Floor, 242 MARQUETTE AVE
Whitby ON L1J1W5

Between: Jesus Tavaréz Landlord

And

Brandon Patrick Richard Law and Tenants
Cassidy James Edmond Rheault

Jesus Tavaréz (the 'Landlord') applied for an order to terminate the tenancy and evict Brandon Patrick Richard Law and Cassidy James Edmond Rheault (the 'Tenants') and for an order to have the Tenants pay the amounts the Tenants owe until the day they move out of the rental unit because the Tenants failed to meet a condition specified in the order issued by the Board on July 7, 2022 with respect to application LTB-L-000769-21.

This application was decided without a hearing being held.

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 Tenants to terminate the tenancy and evict the Tenants if the Tenants did not meet certain condition(s) specified in the order.
2. I find that the Tenants have not met the following condition specified in the order:
 - i. The Tenants, any occupant and anyone permitted in the rental unit shall not smoke within the rental unit.
3. The Landlord submits in the Declaration in support of the application that on October 18, 2022, the Landlord received a complaint at 7:45 pm that another resident smelled smoke coming from the Tenants unit. The Landlord further submits that on November 3, 2022 at 4:40 pm another complaint was received regarding the Tenants unit which advised "back bedrooms smell strong pot smell".
4. I find the allegations raised in the Landlord's Declaration support that the Tenants, any occupant, or anyone permitted in the rental unit breached the previous order by smoking inside the rental unit.

It is ordered that:

5. The tenancy between the Landlord and the Tenants is terminated. The Tenants must move out of the rental unit on or before February 21, 2023.
6. If the unit is not vacated on or before February 21, 2023, then starting February 22, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
7. 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 22, 2023.
8. As of the date of this order, the amount of the rent deposit (\$1,650.00) and interest the Landlord owes on the rent deposit exceeds the amounts the Tenants owe for the cost of filing the application (\$201.00).
9. However, the Landlord is authorized to deduct the following from the amount the Landlord owes the Tenants: \$57.65 per day for compensation for the use of the unit starting February 11, 2023 to the date the Tenants move out of the unit.
10. The Landlord or the Tenants shall pay to the other any sum of money that is owed as a result of this order.

February 10, 2023
Date Issued

 Kimberly Parish
 Member, Landlord and Tenant Board

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

The Tenants have until February 20, 2023 to file a motion with the LTB to set aside the order under s. 78(9) of the Act. If the Tenants file the motion by February 20, 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 22, 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.