



**Order under Section 87/ 88.2/ 89
Residential Tenancies Act, 2006**

Citation: Jiang v Dawe, 2023 ONLTB 19615

Date: 2023-02-09

File Number: LTB-L-028499-22

In the matter of: 10 Sandhill Crane Drive
Wasaga Beach Ontario L9Z0J6

Between: Jinfeng Jiang Landlord

And

Shawn Dawe and Tiffany Forbes Former Tenants

Jinfeng Jiang (the 'Landlord') applied for an order requiring Shawn Dawe and Tiffany Forbes (the 'Former Tenants') to pay the rent and daily compensation that the Former Tenants owe.

Jinfeng Jiang (the 'Landlord') applied for an order requiring Shawn Dawe and Tiffany Forbes (the 'Former Tenants') to pay the Landlord's reasonable out-of-pocket costs that are the result of the Former Tenants failure to pay utility costs they were required to pay under the terms of the tenancy agreement.

Jinfeng Jiang (the 'Landlord') applied for an order requiring Shawn Dawe and Tiffany Forbes (the 'Former Tenants') to pay the Landlord's reasonable out-of-pocket costs that the Landlord has incurred or will incur to repair or replace undue damage to property. The damage was caused wilfully or negligently by the Former Tenants, another occupant of the rental unit or someone the Former Tenants permitted in the residential complex.

This application was heard by videoconference on January 16, 2023. Only the Landlord and the Landlord's representative Christina DePalma attended the hearing.

As of 10:00 a.m., the Former Tenants were 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. As explained below, the Landlord has proven on a balance of probabilities the allegations contained in the application. Therefore, the Former Tenants must pay the Landlord \$35,201.00 by February 20, 2023.
2. The Former Tenants vacated the rental unit on September 9, 2021.
3. The application was filed within one year after the Former Tenant ceased to be in possession of the rental unit.

Rent and daily compensation owing

4. The lawful rent was \$2,100.00. It was due on the 1st day of each month.
5. Based on the monthly rent, the daily rent/compensation is \$69.04 This amount is calculated as follows: \$2,100.00 monthly rent x 12 months, divided by 365 days.
6. The Former Tenants have not made any payments since the application was filed.
7. The tenancy ended on August 31, 2021 as a result of the Former Tenant moving out in accordance with a notice of termination, LTB order or agreement to terminate the tenancy. Therefore, the Former Tenant's obligation to pay rent ended on that date.
8. The rent arrears and daily compensation owing to date determined above are \$6,300.00.
9. Based on the uncontested evidence, I am satisfied on a balance of probabilities that the Tenants owe the Landlord rent for the months' of June, July and August 2021 as claimed by the Landlord.
10. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.

Compensation for unpaid utility costs

11. The Former Tenants failed to pay water costs to the Town of Wasaga Beach that they were required to pay under the terms of the lease agreement.
12. The Landlord has incurred reasonable out-of-pocket expenses of \$327.39 as a result of the Former Tenants failure to pay water costs for the period of July 1, 2021 to August 31, 2021.
13. Based on the uncontested evidence, I am satisfied on a balance of probabilities that the Tenants moved out and had not paid the water utility cost in the amount of \$327.39.

Compensation for damage

14. The Former Tenants, another occupant of the rental unit or a person whom the Former Tenants permitted in the residential complex wilfully or negligently caused undue damage to the rental unit. At the time that the Tenants moved into the rental unit, the home was newly constructed and was offered to the Tenants partially furnished. The Landlord was advised by close neighbours of the rental unit that the Tenants had moved out on or about September 9, 2021. Upon inspection, the Landlord was devastated to find the unit in a grave state, vastly unhygienic and with numerous house fixtures in disrepair or in such a state that the only alternative was to replace the fixtures.
15. The Landlord's compensation claim for damage as contained in Schedule A is \$48,199.90, and is comprised of cleaning of the unit, floor replacement costs, interior painting costs, replacement of washing machine and dishwasher, replacement of damaged or missing furniture, and general repairs throughout the house.

16. The Landlord introduced photographic evidence of damage to the entire home, showing both the before photos of the home as it was shown in the rental ad and once the Tenants had moved out. While only residing there for a period of approximately one year, the home has too many deficiencies, filth, and disrepair to outline. Much of what is seen is indicative of very unhealthy living conditions created by what can be best described as neglect and disregard for any home maintenance routines and care for the property. The home is not recognizable from its original state.
17. Based on the uncontested evidence, I am satisfied that the damage is undue, being over and above normal wear and tear, and the nature of the damage points to it being only through negligence or wilful act. As it has occurred inside the unit after the tenancy commenced, I am also satisfied on a balance of probabilities that the damage was caused by the Tenants, another occupant, or guest. The evidence points to the Landlord not being able to effect repairs without replacing many of the damaged fixtures, on that basis I consider the Landlord's course of action to be reasonable and am satisfied that out-of-pocket expenses have been incurred.
18. The Landlord, while incurring out of pocket costs to repair or replace damage to the rental unit, rental arrears and unpaid utility costs in the amount of \$54,826.39 has amended the application to reflect claims as per the Board's monetary limit of \$35,000.00. An award of \$35,00.00 is therefore given.

Rent Deposit

19. The Landlord collected a rent deposit of \$2,100.00 from the Former Tenants and this deposit is still being held by the Landlord. The rent deposit must be applied to the last rental period of the tenancy.
20. Interest on the rent deposit, in the amount of \$19.24 is owing to the Former Tenants for the period from August 1, 2020 to August 31, 2021.

It is ordered that:

1. The Former Tenants shall pay to the Landlord \$35,201.00, which represents rent and compensation owing up to August 31, 2021, the reasonable costs the Landlord incurred as a result of the damage, the reasonable out-of-pocket expenses the Landlord incurred as a result of the unpaid water utility costs, and the cost of filing the application. The amount of the rent deposit and interest the Landlord owes on the rent deposit has been deducted from the amount owing by the Tenants.
2. If the Former Tenants do not pay the Landlord the full amount owing on or before February 20, 2023, the Former Tenants will start to owe interest. This will be simple interest calculated from February 21, 2023 at 5% annually on the balance outstanding.

February 9, 2023
Date Issued

Alicia Johnson
Member, Landlord and Tenant Board

15 Grosvenor St, 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.

* Refer to the attached Summary of Calculations.

**Note: When the LTB directs payment-out, the Canadian Imperial Bank of Commerce will issue a cheque to the appropriate party named in this notice. The cheque will be in the amount directed plus any interest accrued up to the date of the notice.

**Schedule 1
SUMMARY OF CALCULATIONS**

Amount the Former Tenant must pay the Landlord:

Rent Owing To Lawful Termination Date	\$6,300.00
NSF Charges	0
Substantial Interference Costs	0
Utility Costs	\$327.29
Damage Costs	\$48,199.90
Application Filing Fee	\$201.00
Less the amount the Former Tenant paid to the Landlord since the application was filed	- \$0
Less the amount the Former Tenant paid into the LTB since the application was filed	- \$0
Less the amount the Landlord owes the Former Tenant for an {abatement/rebate}	- \$0
Less the amount of the credit that the Former Tenant is entitled to	- \$0
Less the amount of the last month's rent deposit	- \$2,100.00
Less the amount of the interest on the last month's rent deposit	- \$19.24
Total amount owing to the Landlord	\$35,201.00

2023 ONLTB 19615 (CanLII)