



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

**Citation:** SHEROBEE INVESTMENTS INC v COSTA, 2023 ONLTB 17841

**Date:** 2023-01-30

**File Number:** LTB-L-052761-22

**In the matter of:** 705, 45 PAISLEY BLVD W  
MISSISSAUGA ON L5B1E4

**Between:** SHEROBEE INVESTMENTS INC Landlord

**And**

TANYA COSTA Tenant

SHEROBEE INVESTMENTS INC. (the 'Landlord') applied for an order to have the tenancy terminated because TANYA COSTA (the 'Tenant') failed to meet a condition specified in the order issued by the Board on July 21, 2022 with respect to application LTB-L-003895-22.

This matter was directed to hearing to clarify the alleged breach(es). This application was heard by videoconference January 9, 2023.

Only Lauren Brace, for the Landlord, attended the hearing.

As of 9:47 a.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the Board. There was no record of a request to adjourn the hearing, therefore the hearing proceeded based on the Landlord's uncontested testimony/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 order.

2. The Landlord testified that the L4 indicates at page 6 that the rent due September 1, 2022 in the amount of \$1,996.76, was not paid, plus as per the affidavit, the arrears due September 1, 2022 in the amount of \$1,003.22 were also not paid. The Tenant now owes \$21,602.02 as indicated by the ledger.
3. I find, based on the Landlord's uncontested evidence and testimony, that at the time the Landlord filed the L4 application, September 13, 2022, the Tenant has not met the following conditions specified in the order:
  - i) Pay \$1,003.22 towards the arrears on September 1, 2022.
  - ii) Pay the lawful monthly rent in the amount of \$1,996.76 due September 1, 2022.
4. 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.
5. The Tenant was ordered to pay \$12,421.34 for rent arrears, including the filing fee, in Order LTB-L-003895-22. The amount that is still owing from that order is \$9,421.34 and that amount is included in this order. As a result, the previous order LTB-L-003895-22 is cancelled.
6. The Landlord collected a rent deposit of \$1,974.00 from the Tenant and this deposit is still being held by the Landlord. The last month rent deposit and any applicable interest shall be applied to the last month of the tenancy.
7. 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. The Tenant did not abide by the conditional order, she breached the second month onto the order, and has based on the uncontested evidence before me, has not made any attempt to pay the rent or arrears since. The Tenant also did not attend the hearing to offer any other considerations.

**It is ordered that:**

1. Order LTB-L-003895-22 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 10, 2023.
3. If the unit is not vacated on or before February 10, 2023, then starting February 11, 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 11, 2023.
5. The Tenant shall pay to the Landlord \$19,585.15\*. This amount represents the rent owing up to January 30, 2023, less the rent deposit and interest the Landlord owes on the rent deposit.
6. The Tenant shall also pay to the Landlord \$65.65 per day for compensation for the use of the unit starting January 31, 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 10, 2023, the Tenant will start to owe interest. This will be a simple interest calculated from February 11, 2023. at 5.00% annually on the balance outstanding.

**January 30, 2023**

**Date Issued**

\_\_\_\_\_  
Diane Wade

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 July 31, 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 Tenant must pay**

| Reason for amount owing   | Period                               | Amount   |
|---|--------------------------------------|--|
| Amount owing from previous order<br>Plus New Arrears to the date of this order            |                                      | \$9,421.34<br>\$12,115.03<br>TOTAL \$21,536.37 |
| Less the rent deposit:  |                                      | -\$1974.00                                     |
| Less the interest owing on the rent deposit   | October 24, 2021 to January 30, 2023 | -\$17.22                                       |
| Plus daily compensation owing for each day of occupation starting <b>January 31, 2023</b> |                                      | \$65.65 (per day)                              |

2023 ONLTB 17841 (CanLII)

|  |   |
|--|---|
| <b>Total the Tenant must pay the Landlord:</b> | <b>\$19,585.15, + \$65.65 per day starting January 31, 2023</b> |
|--|---|