



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

Citation: Smits v Falconer, 2023 ONLTB 17111

Date: 2023-01-30

File Number: LTB-L-075252-22

In the matter of: 751 HILLCROFT ST
OSHAWA ON L1G7H8

Between: Derik Smits Landlord

And

Cameron Falconer Tenant

Derik Smits (the 'Landlord') applied for an order to terminate the tenancy and evict Cameron Falconer (the 'Tenant') and for an order to have the Tenant pay the rent they owe because the Tenant did not meet a condition specified in the order issued by the LTB on September 7, 2022 with respect to application LTB-L-007766-22.

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 Tenant to terminate the tenancy and evict the Tenant if the Tenant does not meet certain condition(s) in the order. This application was filed within 30 days of the breach.
2. I find that the Tenant has not met the following conditions specified in the order: **The Tenant failed to pay full \$750.00 towards arrears on or before October 1, 2022. Further, the Tenant failed to pay full monthly rent for October 2022 on or before October 15, 2022.**
3. The previous application includes a request for an order for the payment of arrears of rent and the order requires the Tenant to make payments by specific due dates. Accordingly, in addition to eviction, the Landlord is entitled to request an order for the payment of arrears owing.
4. The Tenant was required to pay \$18,386.00 for rent arrears and the application filing fee in the previous order. The amount that is still owing from that order is \$17,561.00 and that amount is included in this order.
5. The Landlord is entitled to daily compensation from the day after this order is issued to the date the Tenant moves out of the unit at a daily rate of \$69.04. This amount is calculated as follows: \$2,100.00 x 12, divided by 365 days.

It is ordered that:

1. Order LTB-L-007766-22 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 \$22,865.64* (**Less any payments made by the Tenant after this application was filed on October 28, 2022**). This amount represents the rent owing up to January 30, 2023, the application fee for the previous application, less the rent deposit and interest the Landlord owes on the rent deposit.
6. The Tenant shall also pay to the Landlord \$69.04 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**_____
Ian Speers

Associate Chair, Landlord and Tenant Board

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

The Tenant has until February 09, 2023 to file a motion with the LTB to set aside the order under s. 78(9) of the Act. If the tenant files the motion by February 09, 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 11, 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 the Landlord:**

Reason for amount owing	Period	Amount
Amount owing from previous order	Up to September 14, 2022	\$17,561.00
New Arrears	November 15, 2022 to January 30, 2023	\$5,304.64
Less the rent deposit:		-\$0.00
Less the interest owing on the rent deposit	to January 30, 2023	-\$0.00
Plus daily compensation owing for each day of occupation starting January 31, 2023		\$69.04 (per day)
Total the Tenant must pay the Landlord:		\$22,865.64+\$69.04 per day starting January 31, 2023

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