



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

Citation: Metcap Living Management v Resuello, 2023 ONLTB 15627

Date: 2023-01-20

File Number: LTB-L-004340-23

In the matter of: 101, 1303 WILSON AVE
NORTH YORK ON M3M1J1

Between: Metcap Living Management Landlord

And

Irhan Ray Resuello and Janette Resuello Tenants

Metcap Living Management (the 'Landlord') applied for an order to terminate the tenancy and evict Irhan Ray Resuello and Janette Resuello (the 'Tenants') and for an order to have the Tenant to pay the rent they owe because the Tenants did not meet a condition specified in the order issued by the LTB on September 13, 2022 with respect to application LTB-L-011204-22.

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 Tenants to terminate the tenancy and evict the Tenants if the Tenants do not meet certain condition(s) in the order. This application was filed within 30 days of the breach.

2. I find that the Tenants have not met the following condition specified in the order:

The Tenants did not pay \$1,161.00 towards arrears on or before November 20, 2022. The tenants also failed to pay the monthly rent due on or before December 1, 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 \$3,483.00 for rent arrears and the application filing fee in the previous order. The amount that is still owing from that order is \$1,125.14 and that amount is included in this order. This order replaces order LTB-L-011204-22.

5. Since the date of the previous order, the Tenant has failed to pay the full rent that became owing for the period from December 1, 2022 to December 31, 2022.
6. The Landlord collected a rent deposit of \$1,694.08 from the Tenant and this deposit is still being held by the Landlord.
7. Interest on the rent deposit is owing to the Tenant for the period from November 18, 2021 to January 20, 2023.
8. The amount of the rent deposit and interest on the rent deposit is applied to the amount the Tenant is required to pay.
9. 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 \$55.86. This amount is calculated as follows: \$1,699.14 x 12, divided by 365 days.

It is ordered that:

1. Order LTB-L-011204-22 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 January 31, 2023.
3. If the unit is not vacated on or before January 31, 2023, then starting February 01, 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 01, 2023.
5. The Tenant shall pay to the Landlord \$2,184.71* (**Less any payments made by the Tenants after this application was filed on December 7, 2022**). This amount represents the rent owing up to January 20, 2023, less the rent deposit and interest the Landlord owes on the rent deposit.
6. The Tenant shall also pay to the Landlord \$55.86 per day for compensation for the use of the unit starting January 21, 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 January 31, 2023, the Tenant will start to owe interest. This will be a simple interest calculated from February 1, 2023 at 5.00% annually on the balance outstanding.

January 20, 2023
Parish

Date Issued Kimberly

Member, Landlord and Tenant Board

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

The Tenant has until January 30, 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 January 30, 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 01, 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 Calculations**Amount the Tenant must pay the Landlord:**

| Reason for amount owing | Period | Amount |
|--|---------------------------------------|---|
| Amount owing from previous order | Up to August 31, 2022 | \$1,125.14 |
| New Arrears | December 1, 2022 to January 20, 2023 | \$2,816.34 |
| Less the rent deposit: | | -\$1,694.08 |
| Less the interest owing on the rent deposit | November 18, 2021 to January 20, 2023 | -\$62.69 |
| Plus daily compensation owing for each day of occupation starting January 21, 2023 | | \$55.86 (per day) |
| Total the Tenant must pay the Landlord: | | \$2,184.71 + \$55.86 per day starting January 21, 2023 |

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