



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

Citation: Weiner v Crow, 2023 ONLTB 14963

Date: 2023-01-16

File Number: LTB-L-073296-22

2023 ONLTB 14963 (CanLII)

In the matter of: 100 Gadwell Avenue
Barrie Ontario L4N8X3

Between: Jacek Weiner Landlords
Marta Weiner

And

Christina Sheeller Tenants
Matthew Crow

On October 19, 2022, Jacek Weiner and Marta Weiner (the 'Landlords') applied for an order to terminate the tenancy and evict Christina Sheeller and Matthew Crow (the 'Tenants') and for an order to have the Tenants pay the rent they owe, because the Tenants did not meet a condition specified in the order issued by the LTB on December 29, 2021, with respect to application CEL03959-21.

This application was decided without a hearing being held.

Determinations:

1. The order provides that the Landlords 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 does 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 failed to pay to the Landlords \$831.50 on or before October 15, 2022, towards arrears of rent.

3. The previous application includes a request for an order for the payment of arrears of rent and the order requires the Tenants to make payments by specific due dates. Accordingly, in addition to eviction, the Landlords are entitled to request an order for the payment of arrears owing.
4. The Tenants were required to pay \$9,792.00 for rent arrears and the application filing fee in the previous order. The amount that is still owing from that order is \$873.50 and that amount is included in this order. This order replaces order CEL-03959-21.
5. The Landlords collected a rent deposit of \$1,326.00 from the Tenants and this deposit is still being held by the Landlords.
6. Interest on the rent deposit is owing to the Tenants for the period from January 05, 2015, to January 16, 2023.
7. The amount of the rent deposit and interest on the rent deposit is applied to the amount the Tenants are required to pay.
8. The Landlords are entitled to daily compensation from the day after this order is issued to the date the Tenants move out of the unit at a daily rate of \$47.18. This amount is calculated as follows: \$1,435.00 x 12, divided by 365 days.

It is ordered that:

1. Order CEL-03959-21 is cancelled.
2. The tenancy between the Landlords and the Tenants is terminated. The Tenants must move out of the rental unit on or before January 27, 2023.
3. If the unit is not vacated on or before January 27, 2023, then starting January 28, 2023, the Landlords 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 Landlords on or after January 28, 2023.
5. The Tenants shall pay to the Landlords \$3,010.68***(Less any payments made by the Tenants after this application was filed on October 19, 2022)**. This amount represents the rent owing up to January 16, 2023, less the rent deposit and interest the Landlords owes on the rent deposit.
6. The Tenants shall also pay to the Landlords \$47.18 per day for compensation for the use of the unit starting January 17, 2023, to the date the Tenants move out of the unit.
7. If the Tenants do not pay the Landlords the full amount owing on or before January 27, 2023, the Tenants will start to owe interest. This will be a simple interest calculated from January 28, 2023, at 5.00% annually on the balance outstanding.

January 16, 2023

Date Issued

Vladislav Shustov

Member, Landlord and Tenant Board

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

The Tenants have until January 26, 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 January 26, 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 July 28, 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 Tenants must pay the Landlords:

Reason for amount owing	Period	Amount
Amount owing from previous order	Up to December 31, 2021	\$873.50
New Arrears	November 1, 2022, to January 16, 2023	\$3,624.88
Less the rent deposit:		-\$1,326.00
Less the interest owing on the rent deposit	January 05, 2015, to January 16, 2023	-\$161.70
Plus daily compensation owing for each day of occupation starting January 17, 2023		\$47.18 (per day)
Total the Tenants must pay the Landlords:		\$3,010.68 +\$47.18 per day starting January 17, 2023

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