



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

**Citation:** Sterling Silver Development Corporation v Lampkin, 2023 ONLTB 14952

**Date:** 2023-01-16

**File Number:** LTB-L-073383-22

**In the matter of:** 1009, 1202 YORK MILLS ROAD  
DON MILLS ON M3A1Y1

**Between:** Sterling Silver Development Corporation Landlord

**And**

Leonard Lampkin Tenants  
Steve McKinnon

On October 18, 2022, Sterling Silver Development Corporation (the 'Landlord') applied for an order to terminate the tenancy and evict Leonard Lampkin and Steve McKinnon (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 September 26, 2022, with respect to application LTB-L-002861-22.

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 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 Landlord the full lawful rent on or before October 1, 2022.**

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 Landlord is entitled to request an order for the payment of arrears owing.

4. The Tenants were required to pay \$8,971.42 for rent arrears, any NSF charges the Landlord incurred and the application filing fee in the previous order. The amount that is still owing from that order is \$3,053.60 and that amount is included in this order. This order replaces order LTB-L-002861-22.
5. The Landlord is entitled to \$160.00 for administration charges and \$40.00 for bank fees the Landlord incurred as a result of 8 cheques given by or on behalf of the Tenants which were returned NSF after the date of the previous order.
6. The Landlord collected a rent deposit of \$1,957.00 from the Tenants and this deposit is still being held by the Landlord.
7. Interest on the rent deposit is owing to the Tenants for the period from May 06, 2021, to January 16, 2023.
8. The amount of the rent deposit and interest on the rent deposit is applied to the amount the Tenants are required to pay.
9. The Landlord is entitled to daily compensation from the day after this order is issued to the date the Tenants moves out of the unit at a daily rate of \$65.11. This amount is calculated as follows: \$1,980.48 x 12, divided by 365 days.

**It is ordered that:**

1. Order LTB-L-002861-22 is cancelled.
2. The tenancy between the Landlord 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 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 January 28, 2023.
5. The Tenants shall pay to the Landlord \$7,983.07\* (**Less any payments made by the Tenant after this application was filed on October 18, 2022**). This amount represents the rent owing up to January 16, 2023, and unpaid NSF charges, less the rent deposit and interest the Landlord owes on the rent deposit.
6. The Tenants shall also pay to the Landlord \$65.11 per day for compensation for the use of the unit starting January 17, 2023, to the date the Tenants moves out of the unit.
7. If the Tenants does not pay the Landlord 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 Landlord:**

<b>Reason for amount owing</b>	<b>Period</b>	<b>Amount</b>
Amount owing from previous order	Up to September 30, 2022	\$3,053.60
New Arrears	October 1, 2022, to January 16, 2023	\$6,712.10
New NSF cheque charges and related administration charges		\$200.00
Less the rent deposit:		-\$1,957.00
Less the interest owing on the rent deposit	May 06, 2021, to January 16, 2023	-\$25.63
Plus daily compensation owing for each day of occupation starting January 17, 2023		\$65.11 (per day)
<b>Total the Tenants must pay the Landlord:</b>		<b>\$7,983.07 +\$65.11 per day starting January 17, 2023</b>

2023 ONLTB 14952 (CanLII)