



**Order under Subsection 87(1)
Residential Tenancies Act, 2006**

Citation: GALAXY VALUE ADD ONTARIO PROPERTIES LP v COGHLAN, 2022 ONLTB 10622

Date: 2022-11-16

File Number: LTB-L-053725-22

In the matter of: 307, 840 WATER STREET
PETERBOROUGH ON K9H3N9

Between: GALAXY VALUE ADD ONTARIO Landlord
PROPERTIES LP

And

LYNN COGHLAN Tenants
TIMOTHY COGHLAN

2022 ONLTB 10622 (CanLII)

Galaxy Value Add Ontario Properties LP (the 'Landlord') applied for an order requiring Lynn Coghlan and Timothy Coghlan (the 'Tenants') to pay the rent that the Tenants owe.

This application was heard by videoconference on October 26, 2022.

Only the Landlord's Legal Representative Sharon Harris attended the hearing.

As of 1:36 p.m., the Tenants were not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. Since the Tenants did not attend and the Landlord was prepared to proceed, the matter proceeded by way of an uncontested hearing pursuant to section 7 of the *Statutory Powers Procedure Act*, R.S.O. 1990.

Determinations:

1. At the hearing the Landlord's Legal Representative relied on oral submissions and referred to documents to support their application.
2. As of the hearing date, the Tenants were still in possession of the rental unit.
3. The Tenants did not pay the total rent they were required to pay for the period from April 1, 2022 to May 30, 2022.
4. The lawful rent is \$946.25. It is due on the 1st day of each month.
5. The Tenants have not made any payments since the application was filed.
6. At the hearing, the Landlord's uncontested evidence was that the building was sold on May 31, 2022, after the L9 application was filed. While the last month rent deposit was transferred to the new Landlord, the arrears for the period ending May 30, 2022 were not. As such, the applicant Landlord, who is now the former Landlord, seeks an order for the arrears that are owed for the period they owned the property.

7. The definition of “landlord” in subsection 2(1) of the Act reads as follows:

landlord includes:

- (a) the owner of a rental unit or any other person who permits occupancy of a rental unit, other than a tenant who occupies a rental unit in a residential complex and who permits another person to also occupy the unit or any part of the unit,
- (b) the heirs, assigns, personal representatives and successors in title of a person referred to in clause (a), and
- (c) a person, other than a tenant occupying a rental unit in a residential complex, who is entitled to possession of the residential complex and who attempts to enforce any of the rights of a landlord under a tenancy agreement or this Act, including the right to collect rent;

8. Section 18 of the Act says: “Covenants concerning things related to a rental unit or the residential complex in which it is located, run with the land, whether or not the things are in existence at the time the covenants are made.” It is commonly accepted that what this provision means is that when a property is sold and there are sitting residential tenants, the tenancy agreements “run with the land” meaning they remain in place on the same terms and conditions as existed prior to the sale. The new owner steps into the shoes of the old landlord.

9. The primary purpose of the provision was to abolish the common law distinction between covenants *in esse* (which ran with the land) and covenants *in posse* (which did not). At common law, examples of covenants which have always been said to run with the land include the obligation to pay rent and the landlord’s obligation to provide the tenant with quiet enjoyment. As a result of section 18 of the Act it is quite commonplace for successor landlords to bring applications for arrears of rent where the arrears of rent owing cover the period both before (that they have inherited) and after the sale.

10. In this case, based on the evidence before the Board I find that the applicant Landlord is entitled to an order for the arrears that are owing to them. I say this because at the time the application was filed, the former Landlord was still the Landlord in accordance with the definition under the Act. Further, the arrears being claimed by the former Landlord are owed to them and based on the evidence taken at the hearing, they did not transfer to the new Landlord as part of the purchase of the building.

11. The rent arrears owing to May 30, 2022 are \$933.94.

12. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.

13. The Landlord is no longer holding a last month rent deposit as this has been transferred to the new Landlord.

It is ordered that:

1. The Tenants shall pay to the Landlord \$1,134.94*. This amount includes rent arrears owing up to May 30, 2022 and the cost of the application.
2. If the Tenants do not pay the Landlord the full amount owing on or before November 27, 2022, the Tenants will start to owe interest. This will be simple interest calculated from November 28, 2022 at 4.00% annually on the balance outstanding.

November 16, 2022
Date Issued

John Cashmore
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.

* Please see attached Schedule A.

**Schedule 1
SUMMARY OF CALCULATIONS**

File Number: LTB-L-053725-22

A. Amount the Tenants must pay:

Reasons for amount owing	Period	Amount
Arrears:	April 1, 2022 until May 30, 2022	\$933.94

Amount owing to the Landlord on the order date: (total of previous boxes)	\$933.94
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Additional costs the Tenants must pay to the Landlord:	\$201.00
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Total the Tenants must pay the Landlord:	\$1134.94
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