



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

File Number: LTB-L-071028-24

In the matter of: 4738 SIXTH AVE
NIAGARA FALLS ON L2E4T7

Between: Antonio De Simone Landlords
Jessica De Simone

And

Wesley Nixon
Kristen Adams

Tenants

I hereby certify this is a
true copy of an Order dated
Sept 17, 2024
Landlord and Tenant Board

Antonio De Simone and Jessica De Simone (the 'Landlords') applied for an order to terminate the tenancy and evict Wesley Nixon and Kristen Adams (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 August 16, 2024, with respect to application LTB-L-031149-24.

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 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 conditions specified in the order:

The Tenants failed to pay to the Landlords an arrears payment of \$3000.00 in full and on time, on or before September 1, 2024.

The Tenants failed to pay to the Landlords new rent in full and on time, on or before September 1, 2024.

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 \$7,046.00 for rent arrears and the application filing fee in the previous order. The amount that is still owing from that order is \$7,046.00 and that amount is included in this order. This order replaces order LTB-L-031149-24.
5. Since the date of the previous order, the Tenants have failed to pay the full rent that became owing for the period from September 1, 2024, to September 30, 2024.
6. The Landlords collected a rent deposit of \$1,680.00 from the Tenants and this deposit is still being held by the Landlords.
7. Interest on the rent deposit is owing to the Tenants for the period from January 1, 2024, to September 17, 2024.
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 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 \$58.52. This amount is calculated as follows: \$1,780.00 x 12, divided by 365 days.

It is ordered that:

1. Order LTB-L-031149-24 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 September 28, 2024.
3. If the unit is not vacated on or before September 28, 2024, then starting September 29, 2024, 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 September 29, 2024.
5. The Tenants shall pay to the Landlords \$6,330.81*. **(Less any payments made by the Tenants after this application was filed on September 2, 2024).** This amount represents the rent owing up to September 17, 2024, and the cost of filing the previous application, less the rent deposit and interest the Landlords owe on the rent deposit.
6. The Tenants shall also pay to the Landlords \$58.52 per day for compensation for the use of the unit starting September 18, 2024, 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 September 28, 2024, the Tenants will start to owe interest. This will be a simple interest calculated from September 29, 2024, at 7.00% annually on the balance outstanding.

September 17, 2024
Date Issued



James McMaster
Member, Landlord and Tenant Board

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

The Tenants have until September 27, 2024, 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 September 27, 2024, 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 March 29, 2025, 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 August 31, 2024	\$7,046.00
New Arrears	September 1, 2024, to September 17, 2024	\$994.84
Less the rent deposit:		-\$1,680.00
Less the interest owing on the rent deposit	January 1, 2024, to September 17, 2024	-\$30.03
Plus, daily compensation owing for each day of occupation starting September 18, 2024		\$58.52 (per day)
Total the Tenants must pay the Landlords:		\$6,330.81 +\$58.52 per day starting September 18, 2024