



**Order under Section 78(11)
Residential Tenancies Act, 2006**

Citation: The District Municipality of Muskoka v Newell, 2024 ONLTB 29214

Date: 2024-04-24

File Number: LTB-L-092525-23-SA

In the matter of: 827 PINEDALE RD
GRAVENHURST ON P1P1L3

Between: The District Municipality of Muskoka Landlord

And

Jennifer Newell Tenant

The District Municipality of Muskoka (the 'Landlord') applied for an order to terminate the tenancy and evict Jennifer Newell (the 'Tenant') because the Tenant did not meet a condition specified in the order issued by the LTB on May 23, 2023 with respect to application LTB-L-032183-23.

The Landlord's application was resolved by order LTB-L-092525-23, issued on December 7, 2023. This order was issued without a hearing being held.

The Tenant filed a motion to set aside order LTB-L-092525-23.

This motion was heard by videoconference on April 15, 2024. The Landlord represented by Kelly Draycott, and the Tenant represented by Catherine Grinnell, attended the hearing.

Determinations:

1. Consent order LTB-L-032183-23 required the Tenant to maintain the rental unit in an ordinary state of cleanliness until December 31, 2023. The Tenant was also ordered to permit the Landlord to inspect the unit on 24 hours written notice.
2. On November 24, 2023, the Landlord filed the L4 application stating the Tenant has breached the order by having garbage everywhere in the yard. The application states that the order says the Tenant shall maintain the rental property.
3. The evidence and testimony show that the Tenant was making progress. The photographs of the backyard show that there are an abundance of items in the yard, including old furniture, children's bikes and toys, and garbage bags that have been torn open, likely by animals.
4. In considering relief, I have taken into consideration the following. The Tenant has mental health struggles and is assisted by CMHA. The Tenant is supported by Ontario Works and has four children who were removed from the home on November 1, 2023 by Children's Aid Society. The Landlord testified that the Tenant has not refused to have items removed

from the property. The Tenant is clearly in a difficult situation and requires support. The testimony shows there are supports available to assist the Tenant with disposing of unnecessary items and excess garbage. The Tenant's legal representative agreed to assist the Tenant with filling out the necessary application to receive this assistance.

5. After considering all of the circumstances, I find that it would not be unfair to set aside order LTB-L-092525-23.

It is ordered that:

1. The motion to set aside Order LTB-L-092525-23, issued on December 7, 2023, is granted.
2. Order LTB-L-092525-23, issued on December 7, 2023, is set aside and cannot be enforced.
3. The Landlord shall immediately restore the Tenant's possession of the rental unit.

April 24, 2024



Date Issued

Greg Joy
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.

