



**Order under Section 77(11)
Residential Tenancies Act, 2006**

File Number: LTB-L-015859-23-SA

In the matter of: 203, 2685 KING STREET EAST
Hamilton Ontario L8K 1Y4

Between: ALINA LIPIEC and MARIAN LIPIEC Landlord

And

KEVIN ORR
LAURA ORR

I hereby certify this is a
true copy of an Order dated
JUN 23, 2023
Landlord and Tenant Board

Tenant

ALINA LIPIEC and MARIAN LIPIEC (the 'Landlord') applied for an order to terminate the tenancy and evict KEVIN ORR and LAURA ORR (the 'Tenant') and for an order to have the Tenants pay the rent they owe because the Tenants failed to meet a condition specified in the order issued by the Board on January 30, 2023 with respect to application LTB-L-013162-22.

The Landlord's application was resolved by order LTB-L-015859-23, issued on May 1, 2023. This order was issued without a hearing being held.

The Tenant filed a motion to set aside order LBT-L-015859-23 issued on May 1, 2023.

This motion was heard by videoconference on June 8, 2023.

The Landlord Alina Lipiec, the Landlord's Agent, Matthew Lipiec (the Landlords' son), and both of the Tenants attended the hearing.

Determinations:

1. The first issue to consider on this Tenant's motion to set aside order LTB-L-015859-23 issued May 1, 2023 is whether there was a breach of the order as alleged by the Landlord in their application.
2. The Landlord's witness, Brenda Davidson ('BD') is a Superintendent with the Landlord. BD testified that within five days of the order LTB-L-013165-22 issued January 30, 2023, the Tenants breached its terms as the Landlord had three new complaints from residents regarding the Tenants.
3. BD and the Landlord tendered into evidence copies of letters written by a number of residents in the rental complex which state:

- The Tenants were banging on the door of another unit at 6 o'clock in the morning and then returned multiple times to bang on the door until about 9:15 a.m. on January 28, 2023;
 - On January 30, 2023, the Tenants were banging on the door of another unit for approximately 10 minutes and then when they were let in, the Tenants were yelling and screaming obscenities while opening the door and then slamming it;
 - The Tenants were banging things, screaming, and yelling on February 3, 2023 at 8:30 p.m.;
 - On February 11, 2023, the Tenants' guest "Trevor" was observed on the security cameras in the underground parking area taking items and trying to open doors of vehicles owned by other residents. The Tenant's guest "Trevor" was observed opening the door of one vehicle and rifling through the vehicle.
4. The Landlord's witness BD testified that she observed the Tenant's guest "Trevor" taking items that had been placed in front of another resident's truck which was parked in the underground parking garage. BD also stated that the Tenants' behaviour continues and most of the time the excessive noise is in the very early morning hours.
 5. The Tenant Kevin Orr ('KO') testified that he and his sister, the Tenant Laura Orr ('LO') have made every effort to comply with the order and disputes that they have breached the consent order. KO testified that his sister, LO, does not bang on the doors rather she knocks on her father's door who lives on the floor above them.
 6. LO testified that she has not yelled but if she was yelling, she apologies and agrees that she has had some arguments but "everybody has arguments". LO stated that she does scream at her husband, Trevor, only once or twice per month. KO submits that he has told his sister LO to be quiet.
 7. The Tenants deny that their guest "Trevor" has taken anything from the garage that was not garbage or discarded items. The Tenants state that there is a spot in the parking garage where residents can place their discarded items. The Landlord's Agent stated there is no area inside the parking garage to place discarded items. He states that the recycling and garbage is kept outside and that residents have their own assigned parking where some residents will store personal items in front of their assigned parking spots.
 8. The Tenants wish to preserve their tenancy as they have lived in the rental unit since October, 2009, that they have had a friendly rapport with the Landlord and they can change their behaviour as they will stay quiet and not interact with anybody.
 9. I am satisfied, based on the evidence and submissions before me, that a breach of the consent order occurred as the Tenant LO acknowledged that she has gotten into some arguments and that she has yelled or screamed at "Trevor" once or twice a month. I also make this finding based on a review of the letters filed with the Board from other residents

in the complex. While the authors of the letters did not testify at the hearing, the submission of the individual letters detailing the dates and incidents where the breach occurred were compelling and persuasive.

10. The next step to consider is if it would be unfair in all the circumstances to set aside the eviction order. KO states that he was only aware of the breaches when he received the paperwork from the Board and the Landlord and that the residents in the complex “have it out” for his sister. KO submits that he doesn’t engage in the behaviours complained of and that the other residents have their “little coffee club” and are attempting to have him and his sister LO evicted. However, the evidence from the Landlord’s Agent is that the Tenants’ inappropriate behaviour still continues including that LO was found naked in the stairwell on one occasion by a child, LO was found in her underwear in the complex and the Tenants are continuing to yell and bang on the doors and walls. The Landlord’s Agent submits that they have received more complaints from the residents in the complex regarding the Tenants’ behavioural issues.
11. After considering all of the circumstances, I find that it would be unfair to set aside order LTB-L-015859-23 issued May 1, 2023. I accept the evidence of the Landlord’s Agent and the Landlord’s witness that the Tenants’ inappropriate behaviour has continued despite the consent order and the Tenants’ denial of any breach. I also accept that the residents of the complex have made several complaints about the Tenants’ continued inappropriate behaviour and am satisfied the Tenants are more likely than not to continue this behaviour if the tenancy was to continue.

Lifting of the stay:

12. As I am satisfied that the Tenants’ motion should be denied, the next issue before me is when to lift the stay of the order. The Tenants state that LO is in receipt of disability benefits and would require 90 days additional time to locate alternative accommodations if I was to deny their motion.
13. Considering the Tenants’ situation, I find it would be reasonable to delay the lifting of the stay so that the Tenants have additional time to locate alternate accommodations. The stay of order LTB-L-015859-23 shall be lifted on July 14, 2023.
14. This order contains all of the reasons in it and no further reasons will be issued.

It is ordered that:

1. The motion to set aside Order LTB-L-015859-23 issued on May 1, 2023 is denied.
2. The stay of order LTB-L-015859-23 issued May 1, 2023 is lifted on July 14, 2023.

June 23, 2023
Date Issued


Heather Chapple
Member, Landlord and Tenant Board

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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.