



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

Citation: Rana v Wagenaar, 2024 ONLTB 17706

Date: 2024-04-30

File Number: LTB-L-090493-23-SA

In the matter of: 77 ASHGROVE AVE
BRANTFORD ON N3R6E6

Between: Mohammed Rana

And

Cassandra Wagenaar
Braderick Cooper



Landlord

Tenant

Mohammed Rana (the 'Landlord') applied for an order to terminate the tenancy and evict Cassandra Wagenaar and Braderick Cooper (the 'Tenant') and for an order to have the Tenant pay the rent they owe because the Tenant did not meet a condition specified in the order issued by the LTB on November 6, 2023 with respect to application LTB-L-000462-23-SA.

When the capitalized word "Tenant" is used in this order, it refers to all persons identified as a Tenant at the top of the order.

The Landlord's application was resolved by order LTB-L-090493-23, issued on December 1, 2023. This order was issued without a hearing being held.

The Tenant filed a motion to set aside order LTB-L-090493-23.

This motion was heard by videoconference on February 2, 2024. The Landlord, the Landlord's agent, Edwin Alexander, and the Tenant attended the hearing.

Determinations:

There was a breach of the previous order

1. The Tenant failed to meet a condition specified in the order issued by the LTB on November 6, 2023 with respect to application LTB-L-000462-23-SA. It was undisputed that the Tenant did not make the payment that was due on November 15, 2023.
2. Parties agreed that the total amount owing to the Landlord to the end of February 2024 including arrears of rent and the cost of filing was \$26,774.00.

The surrounding circumstances

3. After considering all of the circumstances, I find that it would be unfair to set aside order LTB-L-090493-23. At the hearing the Tenant did not request that the order be set aside and the tenancy be preserved. The Tenant only asked for some additional time to move. The Landlord opposed setting the order aside.

The stay is lifted immediately

4. The stay of order LTB-L-090493-23 is lifted immediately.
5. The Tenant asked for 3-4 months from the date of the hearing, or until April 30th to May 31, 2024, to move out. The Tenant had some medical issues and had a hard time reaching the Landlord to communicate. The Tenant did not provide much detail about these issues and did not explain whether they ever intended to stick to the payment plan contained in the November 2023 order. The Tenant also had some maintenance issues at the property. These maintenance issues were not before me in this application.
6. The Tenant requested additional time to move because of their 2 young children ages 13 and 8. They didn't wish to have to move while it was cold. The Tenant has been looking for a new place to live but had been unable to find anything they could afford.
7. The Landlord was amenable to a mov- out date of March 31 but was hoping that the Tenant could be evicted sooner rather than later. The Landlord has been dealing with the Tenant's non-payment of rent since January 2022 and has tried working with the Tenant by agreeing to payment plans in the past. The parties have a long history before the LTB. The Landlord was concerned with the very high amount owing and the Tenant's inability to pay it back.
8. At the hearing I advised the parties that I would lift the stay of the order between March 31 and May 31, most likely closer to March 31. As the Tenant has had notice that they would need to vacate the property for quite some time, made no payments, and have already had 3 months since the day of the hearing, I find that it would be unfair to delay the lifting of the stay any further.

It is ordered that:

1. The motion to set aside Order LTB-L-090493-23, issued on December 1, 2023, is denied.
2. The stay of order LTB-L-090493-23 is lifted immediately.
3. Order LTB-L-090493-23 is unchanged.

April 30, 2024
Date Issued



Vladimir Nikitin
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.