



Order under Section 78(8) Residential Tenancies Act, 2006

Citation: Provenzano v McGraw, 2024 ONLTB 4751

Date: 2024-01-19

File Number: LTB-L-082949-23-SA

In the matter of: 1, 195 Cromwell Ave
Oshawa ON L1J4T7

Between: Sartorio Santo Provenzano

And

Maxwell McGraw and Roxanne Wright

I hereby certify this is a
true copy of an Order dated
Jan 19 2024
Landlord and Tenant Board

Landlord

Tenants

Sartorio Santo Provenzano (the 'Landlord') applied for an order to terminate the tenancy and evict Maxwell McGraw and Roxanne Wright (the 'Tenants') because the Tenants failed to meet a condition specified in the order by the Board on September 28, 2023 with respect to application LTB-L-039668-23.

The Landlord's application was resolved by order LTB-L-082949-23, issued on November 9, 2023. This order was issued without a hearing being held.

The Tenants filed a motion to set aside order LTB-L-082949-23.

The motion was heard by videoconference on January 9, 2024.

The Landlord and the Tenants attended the hearing.

Determinations:

1. After considering all of the circumstances, I find that it would be unfair to set aside order LTB-L-082949-23.
2. The Tenants do not dispute they failed to pay October rent on October 1, 2023. The Tenant stated his job with GM stopped after training period. The Tenants are seeking another payment plan because he's secured and expects to start a new part time job.
3. The motion is denied because the breach occurred three days after the hearing of first instance and it's unknown when his job stopped. The Tenants' income is speculative since the Tenant hasn't started his new part time job yet; and the Tenants' arrears have increased since the September 2023 with only one payment of \$950.00 paid to date.
4. The Tenants were also already given a chance to preserve this tenancy with the consent order issued on October 19, 2023. Divisional Court in *Trust Construction Corporation v. McKie*, 2017 ONSC 4702 states, "parties ought not to easily able to revisit orders that have

been made on consent. The effective resolution of matters that come before the Board will be greatly impaired if parties can continually seek to revisit issues that they have earlier agreed to resolve”.

5. The stay of order LTB-L-082949-23 is lifted on immediately.

It is ordered that:

1. The motion to set aside Order LTB-L-082949-23, issued on September 28, 2023, is denied.
2. The stay of Order LTB-L-082949-23 is lifted immediately.
3. Order LTB-L-082949-23 is unchanged.

January 19, 2024

Date Issued



Sandra Macchione

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.