



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

Citation: Mcewen v Kelly, 2023 ONLTB 43714

Date: 2023-06-14

File Number: LTB-L-019435-23-SA

In the matter of: B, 30 HICKSON AVE
KINGSTON ON K7K2N5

Between: Shannon Mcewen

And

Skyler Kelly

I hereby certify this is a
true copy of an Order dated
Jun 14 2023
Landlord and Tenant Board

Landlord

Tenant

Shannon Mcewen (the 'Landlord') applied for an order to terminate the tenancy and evict Skyler Kelly (the 'Tenant') because the Tenant failed to meet a condition specified in the order issued by the Board on October 25, 2022 with respect to application LTB-L-015973-22.

The Landlord's application was resolved by order LTB-L-019435-23, issued on April 26, 2023. This order was issued without a hearing being held.

The Tenant filed a motion to set aside order LTB-L-019435-23.

The motion was heard by videoconference on June 5, 2023.

The Landlord, the Landlord's Representative, Vijay Shah and the Tenant attended the hearing.

Determinations:

1. After considering all of the circumstances, I find that it would not be unfair to set aside order LTB-L-019435-23.
2. The Tenant does not dispute that he failed to pay \$500.00 (arrears) and March 2023 rent charges on March 1, 2023. There's no dispute that the Landlord collects and picks up the Tenant's monthly rent payment at the Tenant's rental unit. This is a pattern of payment that has been part of their agreement and consistent for well over six years whereby the Landlord at times has even driven the Tenant to the bank to collect his rent payments. I recognize the Landlord sent the Tenant a letter in February changing the method for collecting rent payment to electronic, but the Tenant does not have a computer or telephone to do electronic banking. The Landlord has also not provided a bank account number that the Tenant can use to deposit his payment knowing that he lacks access to technology. Although the Landlord may have reasonable cause to change the method of collecting payment, I find the Landlord created a barrier for the Tenant, which caused the Tenant to breach a condition of the order dated October 25, 2022.
3. Further relief from eviction is granted pursuant to the Board's discretion under section 78(11)(b) of the Act.

4. As a form of accommodation, the Landlord stated she will open a bank account and sharing the account number with the Tenant who acknowledges that payment going forward can be made from his bank directly into the Landlord's account. The Landlord also commits to provide the account information to the Tenant by phone and in writing. The Tenant understands that going forward the Landlord will no longer attend the unit to collect rent in person.
5. The Tenant seeks a payment plan because he has lived in the unit since 2014. The Tenant commits to making the making payments on time and in full to preserve his tenancy.
6. The Tenant owes the Landlord \$3,460.00 representing the arrears owing to June 30, 2023 and the cost of the application fee.

It is ordered that:

1. The motion to set aside Order LTB-L-019435-23, issued on April 26, 2023, is granted.
2. Order LTB-L-019435-23, issued on April 26, 2023, is set aside and cannot be enforced.
3. Order LTB-L-019435-23, issued on April 26, 2023 is replaced as follows:
4. The Tenant shall pay the Landlord \$3,460.00 according the following payment schedule:
 - a) \$1,000.00 (arrears) on or before July 15, 2023;
 - b) \$1,000.00 (arrears) on or before August 15, 2023;
 - c) \$1,000.00 (arrears) on or before September 15, 2023; and
 - d) \$460.00 (balance of arrears) on or before October 15, 2023
5. The Tenant shall also pay the Landlord rent owing for the month of July 2023 to October 2023, no later than first day of each month or until the balance of arrears is paid.
6. If the Tenant fails to make any one of the payments in accordance with this order, the outstanding balance of any arrears of rent and costs to be paid by the Tenant to the Landlord pursuant to paragraph 4 of this order shall become immediately due and owing and the Landlord may, without notice to the Tenant apply to the Board pursuant to section 78 of the Act for an order terminating the tenancy and evicting the Tenant and requiring that the Tenant to pay any new arrears, NSF fees and related charges that became owing after June 30, 2023.

June 14, 2023
Date Issued



Sandra Macchione
Member, Landlord and Tenant Board

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