



Order under Section 77(8) Residential Tenancies Act, 2006

Citation: Poojari v Powell, 2023 ONLTB 76116

Date: 2023-11-15

File Number: LTB-L-052815-23-SA

In the matter of: UPER LEVEL, 132 RUSSELL CREEK DR
BRAMPTON ON L6R4B4

Between: Radhakrishna Poojari and Ashar Rushi

And

Candace Powell and Brian Taylor

I hereby certify this is a
true copy of an Order dated

NOV 15, 2023

Landlord and Tenant Board

Landlords

Tenants

Radhakrishna Poojari and Ashar Rushi (the 'Landlords') applied for an order to terminate the tenancy and evict Candace Powell and Brian Taylor (the 'Tenants').

The Landlord's application was resolved by order LTB-L-052815-23, issued on June 22, 2023. This order was issued without a hearing being held.

The Tenant filed a motion to set aside order LTB-L-052815-23.

The motion was heard by videoconference on September 19, 2023.

The Tenants attended the hearing. The Landlords were represented at the hearing by M.Buller.

Determinations:

The Breach

1. The Landlords filed an application because the Tenant did not pay the rent the Tenant owes. This matter was settled by way of order LTB-L-020608-23 which required the Tenant to pay the outstanding arrears by way of a payment plan.
2. The order provided that the Landlords could apply to the Board under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') without notice to the Tenant to terminate the tenancy and evict the Tenant if he failed to meet the conditions specified in the consent order.
3. There is no dispute that the Tenant breached the order by failing to pay the required arrears and rent payments..As a result, the Landlords applied for an ex-parte order terminating the tenancy. The Landlords' request was granted pursuant to LTB-L-052815-23.

4. This motion is brought pursuant to subsection 78(11) of the Act. As the Tenant acknowledges breaching the order the issue before me is whether I am satisfied, having regard to all the circumstances, that it would not be unfair to set aside the order.

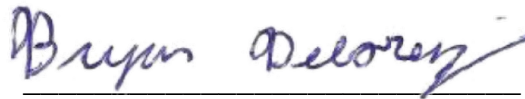
Whether to Set Aside the Order

5. The Tenants acknowledge the tenancy is no longer viable and seek a delay in lifting the stay of order LTB-L-052815-23. The Landlords seek the stay be lifted immediately.
6. Noting the amount arrears are substantial, and the Tenants' inconsistent payment history, I find it would be prejudicial to the Landlord to delay lifting the stay.

It is ordered that:

1. The motion to set aside order LTB-L-052815-23, issued on June 22, 2023, is denied.
2. The stay of order LTB-L-052815-23, is lifted immediately.

November 15, 2023
Date Issued



Bryan Delorenzi
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.