



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

File Number: SOL-23004-21-SA

In the matter of: 308 BRANTWOOD PARK ROAD
BRANTFORD ON N3P1L2

Between: Adam Wissink Landlord

and

Jaya Maharaj Tenants
Shawn Barna

Adam Wissink (the 'Landlord') applied for an order to terminate the tenancy and evict Jaya Maharaj ('JM') and Shawn Barna ('SB', the 'Tenants') 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 June 29, 2021 with respect to application SOL-17836-20.

The Landlord's application was resolved by order SOL-23004-21, issued on July 20, 2021. The Tenants filed a motion to set aside order SOL-23004-21.

This motion was heard in video conference room 101 on October 13, 2021.

The Landlord and the Tenant JM attended the hearing.

Determinations:

1. The Tenant JM agreed that the Tenants did not meet a condition in the June 29, 2021 conditional Board order. The Tenants did not pay \$500.00 to the Landlord on June 15, 2021 and \$1,600.00 on June 20, 2021.
2. JM requested further relief from eviction. JM proposed a payment plan similar to the one in the June 29, 2021 conditional order. JM testified that her household, which includes the other Tenant and four children, would face homelessness if they are required to vacate the rental unit.
3. The Landlord opposed relief from eviction. The Landlord noted that JM did not present documentary evidence of a change in the Tenants' financial circumstances that will promote compliance with a new payment plan.
4. The *Residential Tenancies Act, 2006* (the 'Act') is remedial legislation. At the time, the Tenants owed the Landlord \$7,600.00 when the Board issued its June 29, 2021 conditional order. Although the Tenants breached that order, they did make payments to the Landlord and, as of the hearing date, owed the Landlord \$5,300.00. I accordingly find that the evidence shows the Tenants' good faith intent to pay the amount they owes.

5. I therefore conclude it is not unfair to exercise my discretion under subsection 78(11) of the Act and grant conditional relief from eviction. The payment plan below reflects JM's evidence of the Tenants' ability to make scheduled payments to the Landlord. If the Tenants fail to make a payment, the Landlord may apply under section 78 of the Act, without notice to the Tenants, for an eviction order. Such an application must be made within 30 days of the Tenants' breach.

It is ordered that:

1. Order SOL-23004-21, issued on July 20, 2021, is set aside.
2. The Tenants shall pay the Landlord \$5,300.00 for the period ending October 31, 2021, and their ongoing rent, as follows:
 - a) \$2,700.00 toward arrears on October 31, 2021;
 - b) \$1,500.00 toward rent on November 10, 2021;
 - c) \$1,600.00 toward rent on November 20, 2021;
 - d) \$700.00 toward arrears on November 20, 2021;
 - e) \$1,500.00 toward rent on December 10, 2021;
 - f) \$1,600.00 toward rent on December 20, 2021;
 - g) \$500.00 toward arrears on December 30, 2021;
 - h) \$1,500.00 toward rent on January 10, 2022;
 - i) \$1,600.00 toward rent on January 20, 2022;
 - j) \$600.00 toward arrears on January 20, 2022;
 - k) \$1,500.00 toward rent on February 10, 2022;
 - l) \$1,600.00 toward rent on February 20, 2022;
 - m) \$500.00 toward arrears on February 20, 2022;
 - n) \$1,500.00 toward rent on March 10, 2022;
 - o) \$1,600.00 toward rent on March 20, 2022; and
 - p) \$300.00 toward arrears on March 20, 2022.
3. If the Tenants 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 Tenants to the Landlord pursuant to paragraph 2 of this order shall become immediately due and owing and the Landlord may, without notice to the Tenants apply to the Board pursuant to section 78 of the Act for an order terminating the tenancy and evicting the Tenants and requiring that the Tenants pay any new arrears, NSF fees and related charges that became owing after October 31, 2021.

October 26, 2021

Date Issued

Southern-RO
119 King Street West, 6th Floor
Hamilton ON L8P4Y7



Harry Cho
Member, Landlord and Tenant Board

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