

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

Citation: Williams & McDaniel Property Management v Ross, 2024 ONLTB 11757

Date: 2024-02-16

File Number: LTB-L-075900-23-SA

In the matter of: 422, 125 RAYMOND ST
GUELPH ON N1H3S6

Between: Williams & McDaniel Property Management Landlord

And

Eleanor Ross Tenant

Williams & McDaniel Property Management (the 'Landlord') applied for an order to terminate the tenancy and evict Eleanor Ross (the 'Tenant') because the Tenant did not meet a condition specified in the order issued by the LTB on March 3, 2023 mediated settlement signed by the parties on March 3, 2023 with respect to application LTB-L-064140-22.

The Landlord's application was resolved by order LTB-L-075900-23, issued on October 11, 2023. This order was issued without a hearing being held.

The Tenant filed a motion to set aside order LTB-L-075900-23.

This motion was heard by videoconference on February 6, 2024. The Landlord's representative Tim Kelly, and the Tenant, attended the hearing.

Determinations:


1. On February 23, 2023, the Tenant consented to an order that required her dog to be securely on leash and muzzled when outside the rental unit. The Landlord alleges that on September 18, 2023, two staff members saw the dog without a muzzle in the common area.
2. There were no incidents prior to this alleged incident and there have been no incidents that breached the condition of the order since the hearing one year ago.
3. The Tenant disputes that her dog did not have a muzzle on at the time. The Tenant testified that her dog was sprayed by a skunk and the muzzle was replaced with a black muzzle that is difficult to see.
4. I chose not to hear from the Landlord's witnesses. I accept that they would testify that they witnessed the dog without a muzzle.

5. The question before me is whether I believe it is fair in all the circumstances to grant relief from eviction. In this case, where the dog may have been briefly in the common area of the residential complex, on one occasion, I find it would be unfair to terminate the tenancy. It is clear to me that the Tenant is complying with the order as demonstrated by the fact there have no other incidents. I find that it would not be unfair to set aside order LTB-L-075900-23.

It is ordered that:

1. The motion to set aside Order LTB-L-075900-23, issued on October 11, 2023, is granted.
2. Order LTB-L-075900-23, issued on October 11, 2023, is set aside and cannot be enforced.

February 16, 2024



Date Issued

Greg Joy
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.