



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

File Number: EAL-93001-20-SA

In the matter of: 208, 117 MONT ADAM STREET
SUDBURY ON P3B0E1

Between: Raiffeisen Phase 2 Non-profit Landlord

and

Colleen Violette Tenant

Raiffeisen Phase 2 Non-profit (the 'Landlord') applied for an order to terminate the tenancy and evict Colleen Violette (the 'Tenant') and for an order to have the Tenant pay the rent the Tenant owes because the Tenant failed to meet a condition specified in the order issued by the Board on October 9, 2020 with respect to application HOL-06670-20.

The Landlord's application was resolved by order EAL-93001-20, issued on January 20, 2021. The Tenant filed a motion to set aside order EAL-93001-20.

This motion was heard in Passcode: 863 955 538# on April 21, 2021. The Landlord's representative Monique Laderoute, and the Tenant, represented by Nathan Boivan, attended the hearing. Also in attendance as witness for the Landlord, was the Landlord's Property Manager Sheri Whitsitt.

Determinations:

1. The Tenant filed a set aside motion where she claims she did not breach the terms of the consent order that gave rise to the Landlord's application under section 78 of the *Residential Tenancies Act*.
2. At the hearing the Tenant testified that she was in hospital for 42 days during February and March 2021. A post hearing submission confirmed this was the case. These dates were from February 14 to March 19, 2021.
3. The Tenant's representative submits that the Tenant's access card was used several times during this time frame.
4. The order issued by the Board on October 9, 2020 states that the Board is providing the Tenant with one more chance to maintain the long-term tenancy.

5. The evidence from the Landlord is overwhelming that the Tenant has breached the terms of the order on several occasions. Many of these breaches of the terms of the order occurred outside of the time the Tenant was in the hospital. There are affidavits supporting the allegations and security photographs demonstrating the breaches of the order with some occurring shortly after the order was issued.
6. The evidence also shows the Tenant's guests have been in breach of the terms of the order.
7. Under all the circumstances, and considering the findings of the order that gave rise to this application, I find it would be unfair to the Landlord or the other tenants in the residential complex to deny the termination of the tenancy.
8. The Tenant's representative requested that, if the termination of the tenancy is deemed appropriate, that the termination of the tenancy be delayed for three months. I have considered this submission and find that a delay until the end of June is appropriate.

It is ordered that:

1. The motion to set aside Order EAL-93001-20, issued on January 20, 2021, is denied.
2. The stay of order EAL-93001-20 is lifted on June 30, 2021.



Greg Joy
Member, Landlord and Tenant Board

May 25, 2021
Date Issued

Eastern-RO
255 Albert Street, 4th Floor
Ottawa ON K1P6A9

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