



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

Citation: North Street Towns Ltd. v Moncrieff, 2024 ONLTB 26271

Date: 2024-04-12

File Number: LTB-L-010129-24-SA

In the matter of: 5, 212 NORTH ST
STAYNER ON L0M1S0

Between: North Street Towns Ltd. Landlord

And

Candice Moncrieff Tenants
Richard Morel

North Street Towns Ltd. (the 'Landlord') applied for an order to terminate the tenancy and evict Candice Moncrieff and Richard Morel (the 'Tenants') because the Tenants did not meet a condition specified in the order issued by the LTB on April 18, 2023 with respect to application LTB-L-032263-22.

The Landlord's application was resolved by order LTB-L-010129-24, issued on February 20, 2024. This order was issued without a hearing being held.

The Tenants filed a motion to set aside order LTB-L-010129-24.

This motion was heard by videoconference on April 4, 2024. The Landlord represented by Kristen Ley, and the Tenants, attended the hearing.

Determinations:

1. At a hearing in April 2023, the Tenants consented to an order to pay the monthly rent in full and on time for an 18-month period beginning May 2023. The Landlord filed this L4 application because the Tenants paid February rent on February 2, 2024.
2. The Tenants response was that after arriving home from work the Tenants fell asleep on the couch and as soon as they realized the rent was not paid, they made the payment.
3. The Landlord points to the fact the Tenants were late on two previous occasions in the eleven months since the order was issued.
4. The Tenants testified that on one occasions the new bank card they received did not work but they paid as soon as the issue was resolved, and the second time they were late by three days due to three deaths in the family they had to assist with funeral costs. The Tenants also testified that they also pay the Landlord early on many occasions. This was not disputed.

5. In considering relief, I have considered that this is a nearly ten-year tenancy, that the Tenant has three daughters involved in the community, that the Tenants were apologetic for paying late, and the fact that the effect on evicting the Tenants would outweigh the effect of the Landlord receiving rent a couple of days late on these occasion. The Tenants have breached the condition of the order, but I find eviction would be disproportionate to the effect of the breach.
6. After considering all of the circumstances, I find that it would not be unfair to set aside order LTB-L-010129-24.

It is ordered that:

1. The motion to set aside Order LTB-L-010129-24, issued on February 20, 2024, is granted.
2. Order LTB-L-010129-24, issued on February 20, 2024, is set aside and cannot be enforced.
3. Order LTB-L-032263-22 remains in effect.

April 12, 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.

