



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

**Citation:** Shoreline Property Management v Smith, 2023 ONLTB 78656

**Date:** 2023-12-06 **File Number:**  
LTB-L-059796-23-SA

**In the matter of:** 103, 720 Princess Street Kingston  
ON K7L0C7

**Between:** Shoreline Property Management Landlord

**And**

Shayne Smith Tenant

Shoreline Property Management (the 'Landlord') applied for an order to terminate the tenancy and evict Shayne Smith (the 'Tenant') because the Tenant entered into an agreement to terminate the tenancy.

The Landlord's application was resolved by order LTB-L-059796-23, issued on August 11, 2023. This order was issued without a hearing being held.

The Tenant filed a motion to set aside order LTB-L-059796-23.

The motion was heard by videoconference on November 21, 2023. The Landlord's representative Jennifer Fiegehen, and the Tenant's representative John Done, attended the hearing.

### **Determinations:**

1. Mr. Done was retained by the Tenant and filed the motion to set aside on August 17, 2023. In the area of the motion which says explain why you think the order should be set aside, the reason provided states: the Residential Tenancies Act s 77(6) provides that the respondent may make a motion to the Board, on notice to the applicant, to have the order under subsection (4) set aside within 10 days after the order is issued. The Landlord's representative submits that she has no idea why the motion was filed or what the argument might be at a set aside hearing.
2. The morning of the hearing Mr. Done file a motion to dismiss claiming the L1 application, despite this being an L3 application, was invalid because it was signed by a non-licensee

of behalf of a third party and contravenes the Law Society Act. The entire submission refers to an L1 application which leads me to conclude this is an argument Mr. Done has presented previously. This also makes me question why this submission was not further in advance of the hearing in order for the Board and opposing counsel to give it proper consideration.

3. The application was submitted by Paige McClinton. The Landlord was unaware that this motion would be presented at the hearing. Marjorie Hughes, who attended the hearing on behalf of the Landlord because Ms. McClinton is on vacation, confirmed that Ms. McClinton works for Shoreline Property Management, by the property owner, to manage the property, and that Ms. McClinton is the Property Manager for this residential complex. Ms. Hughes also confirmed that Ms. McClinton works exclusively for Shoreline Property Management.
4. Section 185 of the *Residential Tenancies Act* states that an applicant may give an agent written authorization to sign an application. By hiring a property management company to manage a property, I find the act of hiring the company is a form of written authorization. The company collects rent, selects tenants, arranges for required maintenance and all other related duties a landlord would perform.
5. Regarding the argument that the person who signs an application must be a licensee of the Law Society, Board Guideline 21 refers to Section 2(1) of the Act which defines 'landlord' and states, that a landlord is the owner of a rental unit or any other person who permits occupancy of a rental unit. In this case, it is the property management company who permits occupancy. The interpretation of this section indicates that the word "includes" certain persons indicates that the definition is not intended to be exhaustive. The person or company may be more than one person or company that meets the definition of landlord.
6. Mr. Done made the submission that he does not agree with the guideline.
7. I find that the application is signed by an agent authorized to file an application with the Board. The motion is denied.
8. Mr. Done then asked for an adjournment because the Tenant did not show up for the hearing. Mr. Done submits he attempted to contact the Tenant that morning by sending an email and attempting to call the Tenant two times but did not receive a response. Mr. Done asked if the matter could be stood down so he could go to the Tenant's residence. In considering this request I took the following into consideration. Mr. Done informed the Board that he has not been in contact with his client since, or close to, the time the motion was filed. The reason provided was that Mr. Done was too busy with a case he was dealing with in Divisional Court for the past three months.
9. Mr. Done also took the position that his client was referred to him from a mental health and addictions organization. Therefore he requires accommodation. There is nothing to show that the Tenant has requested accommodation, and in the three months since Mr. Done was retained as his legal representative, there has been no request for accommodation. Mr. Done also informed the Board that he sent a text to the Tenant's worker who responded that the worker can't help with this hearing.

10. Considering the fact that no effort had been made to communicate with the Tenant by Mr. Done or the legal clinic prior to the hearing to determine if he was aware of the hearing or intended to attend, the request to stand the matter down was denied. Mr. Done then stated that he could not defend the motion and did not participate.
11. The Landlord's representative submits that there is no evidence that the Tenant was coerced into signing the N11 agreement to terminate the tenancy and that the motion filed on his behalf makes no mention of a reason why the order should be set aside.
12. I find the Landlord and Tenant entered into an agreement to terminate the tenancy as of July 31, 2023.
13. After considering all of the circumstances, I find that it would be unfair to set aside order LTB-L-059796-23.

**It is ordered that:**

1. The motion to set aside Order LTB-L-059796-23, issued on August 11, 2023, is denied.
2. The stay of Order LTB-L-059796-23, is lifted immediately.
3. Order LTB-L-059796-23 is unchanged.

**December 6, 2023**

**Date Issued**

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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.