



**Order under Section 78(6)  
Residential Tenancies Act, 2006**

**Citation:** Hazelview Property Services Inc. v Olah, 2023 ONLTB 71409

**Date:** 2023-10-30

**File Number:** LTB-L-076701-22

**In the matter of:** 421, 105 WEST LODGE AVE TORONTO  
ON M6K2T8

**Between:** Hazelview Property Services Inc. Landlord

**And**

Bela Olah Tenant

Hazelview Property Services Inc (the 'Landlord') applied for an order to terminate the tenancy and evict Bela Olah (the 'Tenant') because the Tenant failed to meet a condition specified in the order issued by the Board on August 11, 2021 with respect to application TSL-21580-21.

The Landlord's application was resolved by order TSL-26636-22, issued on September 12, 2022.

The Tenant filed a motion to set aside order TSL-26636-22.

This motion was heard by videoconference on November 14, 2022 and July 25, 2023.

The Landlord's representative Rachel Gibbons, the Landlord's agent R. Bachan, the Landlord's witness Chris Wylie, the Tenant and the Tenant's representative Olivia Dooley attended the hearing on November 14, 2022. The Landlord's representative Rachel Gibbons, the Landlord's agent J. Aguiar, the Landlord's witness Chris Wylie, the Tenant and the Tenant's representative Candace Bguyen attended the hearing on July 25, 2023.

**Determinations:**

1. The Tenant's motion to set aside the eviction order was brought pursuant to subsection 78(11) of the Residential Tenancies Act, 2006 (the "Act")

2. The Board must first determine whether or not the Tenant breached order TSL-21580-21 issued on August 11, 2021 (the “Section 78 Order”). The Section 78 Order provided that the Landlord could apply to the Board under section 78 of the Act without notice to the Tenant to terminate the tenancy and evict the Tenant if the Tenant did not meet certain conditions specified in the order.
3. If the Board finds that the Tenant did breach the Section 78 Order, then the Board must decide whether or not “in all the circumstances” it would be “unfair to set aside” the eviction order. If the Board determines that it would not be unfair to set aside the eviction order then the Board is supposed to grant the motion and set aside the order. If the Board determines that it would be unfair to set aside the eviction order then the motion must be denied.

*July 17, 2022 incident*

4. While the Landlord alleges three breaches of the Section 78 Order, the Tenant admits to only breaching the Section 78 Order on July 17, 2022 when the Tenant permitted his son Robert to visit him at the residential complex. The Tenants states his son was “checking up” on him and during this visit, there was music played in the Rental Unit.
5. While the Landlord also submits the Tenant’s guests “used profanity” on July 17, relying upon another tenant’s *Incident Reporting Form*, the Tenant denies there was any such threats. In this regard, I prefer the Tenant’s direct evidence as opposed to the Landlord’s hearsay evidence submitted.

*July 13, 2022 incident*

6. The Landlord alleges the Tenant also breached the Section 78 Order by permitting his son Robert at the residential complex on July 13, 2022 and failing to ensure his guests did not exhibit aggressive behaviour.
7. The Landlord’s witness, Chris Wylie (“CW”), a Property Manager for the building, testified that on July 13, 2022, a security agent at the building observed approximately 14 people outside of the building causing a disturbance. While the Landlord also submits that Robert caused damage to a resident’s vehicle, such allegation was based upon a (double) hearsay *Security Incident Report*, stating a security agent on site was told that Robert had caused the damage. The Landlord did not produce as a witness the security agent, or the Tenant whose car was damaged.
8. The Tenant denies breaching the Section 78 Order on July 13, 2022. The Tenant admits his son came to the building on that day but states he did not invite his son. At the hearing, CW admitted there are two other family and friends’ units in the building that are

affiliated with the Tenant (Units #908 and #412). As this incident took place outside and there were admittedly 14 people present, I do not find the Tenant “permit” his son to visit the residential complex at that time -or that Robert was his “guest”.

*July 14, 2022 incident*

9. The July 14, 2022 incident, on its face, contains the most serious allegations. CW testified that Robert was seen at the front of the building by security personnel and was screaming and exhibiting aggressive behaviour following an altercation with other tenants. The *Security Incident Report* produced stipulates, in part:

S/A was hearing continuous and disturbing yelling from the front of the 105 WL building, upon getting there, S/A observe tenant of 421 – 105 WL yelling at the top of his voice with blood all over his cloth and a wrapped bandage over his left hand he apparently had a fight with some group of people we were in 317 – 105 WL...at this time the TPS arrived on site seeing him trying to be violent and put him on handcuffs...

10. The Landlord also produced *Incident Reporting Forms* from residents, detailing the incident that occurred. Neither of the residents appeared at the hearing. In two of the *Incident Reporting Forms*, the residents identify residents/incidents from Unit “908” [emphasis added] – a residential unit believed to be occupied by a member of the Tenant’s family. Similarly, the Landlord produced an email written on July 14, 2022 from the Landlord’s property Administrator, Natalia Campos Avila, reporting the details received from such residents:

..From what I understood they asked the male occupant of #908 (Robert Olah) to stop leaving used needles and syringes in the hallways. Robert Olah became enraged and was threatening them...

11. With respect to the July 14, 2022 incident, the Landlord produced a video of an individual identified by CW as Robert in the building courtyard yelling with a wrapped bandage over his hand and paramedics on scene. The individual can be seen climbing a fence installed in the front of the building while aggressively yelling and gesturing at neighbouring tenants.
12. The Tenant is not seen in the video. At the hearing, the Tenant denied being at the residential complex when this occurred, stating he was visiting his other son on Dupont street at the time. Based upon the Tenant’s direct evidence he was not present, the video footage showing only Robert outside of the building and the Landlord’s documentation referencing a unit other than the Rental Unit, I find on a balance of probabilities there was no breach of the Section 78 Order with respect to this incident.

13. The next issue is whether or not “in all the circumstances” it would be “unfair to set aside” the eviction order.
14. The Landlord seeks an order for eviction, noting the Tenant’s failure to abide by the Section 78 Order has placed the safety of others at risk and compromised their right to live peacefully in the building. CW testified the Tenant resides in a multi-residential complex with a tenant population of approximately 3000. CW testified that Robert has been seen at the residential complex since the noted incidents and as recently as June 12, 2022, a video was produced showing Robert attempting to gain entry to a first-floor residence.
15. The Tenant submits it would not be unfair to set aside the eviction order. It was submitted that the sole July 17, 2022 breach occurred approximately 3 weeks prior to the Section 78 Order ending. Moreover, it was submitted the Tenant breached the Section 78 Order by allowing his son Robert to “check up” on him. At the hearing, it was noted that the Tenant’s spouse passed approximately 4 years ago and the Tenant’s other son, Laszlo, passed in March 2022, which was sometime after the Section 78 Order was issued.
16. The Tenant is a long-term tenant and based upon the documentation submitted, I am satisfied the Tenant has certain cognitive and health issues. Consequently, I am satisfied the passing of the Tenant’s son Laszlo in March 2022 – the Tenant’s then primary caregiver – played a role in the Tenant permitting Robert into the Building on July 17, 2022. Such a breach of the Section 78 Order, nonetheless, must not re-occur. While I do not find that the Tenant breached the Section 78 Order as a result of the July 13 and July 14 incidents, I accept the Landlord’s evidence that Robert’s presence at the residential complex is problematic. Although the Tenant has expressed some reliance upon Robert since the passing of his primary caregiver, I am satisfied that Robert’s future presence at the building would cause undue hardship to the Landlord and potentially disrupt the peaceful enjoyment of other tenants in the building. In the circumstances, I find it would not be unfair to set aside the eviction order and impose a new Section 78 Order not allowing his presence.

**It is ordered that:**

1. The motion to set aside Order TSL-26636-22, issued on September 12, 2022, is set aside.
2. Order TSL-21580-23, issued on August 11, 2021 is cancelled and replaced with the following terms:
3. The Tenant shall ensure that his son Robert does not enter the Rental Unit.
4. The Tenant shall not permit his son Robert to visit at the Residential Complex.

5. The Tenant shall ensure that his guests do not exhibit aggressive behaviour to the Landlord's staff or other tenants or occupants of the residential complex.
6. If the Tenant fails to comply with this order, the Landlord may apply under section 78 of the Residential Tenancies Act, 2006, without notice of the Tenant for an order terminating the tenancy and evicting the Tenant. The Landlord must make this application no later than 30 days after the Tenant's breach.

**October 30, 2023**

**Date Issued**

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**Peter Nicholson**

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.