



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

Citation: Dauria v Tibbs, 2023 ONLTB 67388

Date: 2023-10-12 **File Number:**
LTB-L-046048-23-SA

2023 ONLTB 67388 (CanLII)

In the matter of: 147 DUNDAS ST
BRANTFORD ON N3R1S6

Between: Alexandra Dauria Landlords
Brayden Frey

And

Karen Tibbs Tenants
Brody Yetman

Alexandra Dauria and Brayden Frey (the 'Landlords') applied for an order to terminate the tenancy and evict Karen Tibbs and Brody Yetman (the 'Tenants') and for an order to have the Tenants pay the rent they owe because the Tenants failed to meet a condition specified in the order issued by the Board on May 17, 2023 with respect to application LTB-L-029876-23.

The Landlord s application was resolved by order LTB-L-046048-23 issued on June 30, 2023. The Tenants filed a motion to set aside the ex-parte order.

This motion was heard by videoconference on September 7, 2023. The Landlords attended the hearing and were represented by Patty Duwyn. The Tenants attended the hearing and were self-represented.

Determinations:

1. The prior order was issued on consent of the parties and ordered the Tenants to pay the rent arrears owing by way of a repayment plan and to transfer the utility bills into their own names.

2. The ex-parte order issued terminates the tenancy as the Tenants did not pay to the Landlord \$1,336.15 on or before May 20, 2023, nor did the Tenants pay the monthly rent for June 2023 on or before June 1, 2023. The order also finds that the Tenants failed to transfer the utility bills into their own name on or before May 15, 2023 as required by the prior order.
3. The Tenants do not dispute breaching the order. The Tenants testified that they did not transfer the utility bills into their own name as there is currently an outstanding balance owing with the utility provider, that the Tenants cannot afford to pay this amount and that **File Number: LTB-L-046048-23**

the utility provider will not transfer the bills to their name until any outstanding amounts are paid.

4. The Tenant Karen Tibbs testified that her work was slow during the summer months and as such, was unable to comply with the repayment plan. The Tenant Brody Yetman is currently in receipt of Ontario Works payments only and as such, was also unable to comply with the repayment plan.
5. Since the initial breaches plead on the L4 application, the Tenants have also failed to pay the lawful rent owing for July, August and September 2023 nor have the Tenants made any arrears payments to the Landlord for the months of July and August 2023.
6. The Tenant Karen Tibbs testified that she is self-employed and has secured new contracts during the fall months of 2023. The Tenants requested a new repayment plan and additional time to transfer the utility bills in their name.
7. Based on the evidence before the Board, I find that it would be unfair to set aside the ex-parte order issued on June 30, 2023. In addition to the breaches plead on the L4 application, the Tenants have continued to breach the prior order by not paying the rent ordered and owing for the months of July – September 2023. Further as of the hearing date, the Tenants have still neglected to transfer the utility bills to their own names and thus resulting in the Landlords being charged for the consumed amounts.
8. The Landlords are a non-corporate entity who rely on the rental income to pay the mortgage, taxes and operating costs on the rental property.
9. Under the Act, the general intention is that the Board has an obligation to uphold and enforce the agreements into which landlords and tenants enter. If it does not do so, then there is little incentive for parties to attempt negotiation. Board orders and mediated agreements are not mere suggestions with respect to conduct, but legally binding orders. If the Board does not uphold and enforce its own orders, disrespect for the Board's processes will inevitably ensue.
10. I find that the Tenants repeated breach of the prior order issued on consent has caused undue prejudice to the Landlords and that any further delay would only amount to

additional arrears owing and further prejudice to the Landlords. As such, the stay of the ex-parte order will be lifted immediately.

It is ordered that:

1. The motion to set aside Order LTB-L-046048-23 issued on June 30, 2023, is denied.
2. The stay of order LTB-L-046048-23 is lifted immediately.

October 12, 2023

Date Issued

Fabio Quattrociochi

Member, Landlord and Tenant Board

File Number: LTB-L-046048-23

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.