



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

**Citation:** KLH Housing Corp v McCarty, 2023 ONLTB 66249

**Date:** 2023-10-06

**File Number:** LTB-L-060220-23

**In the matter of:** 404, 111 WILLIAM ST N LINDSAY  
ON K9V4Z8

**Between:** KLH Housing Corp Landlord

**And**

Troy McCarty Tenant

KLH Housing Corp (the 'Landlord') applied for an order to terminate the tenancy and evict Troy McCarty (the 'Tenant') and for an order to have the Tenant pay compensation for damage they owe because the Tenant failed to meet a condition specified in the order issued by the Board on July 11, 2023, with respect to application LTB-L-039743-22.

A hearing was held by videoconference on September 26, 2023, to consider this application.

The Tenant attended the hearing. The Landlord was represented at the hearing by Caroline Smith.

**Determinations:**

*The Breach*

1. The Landlord filed an application to evict the Tenant because the Tenant's guests stole property and caused damage to the rental unit. The individuals the Tenant permitted into the rental unit were prohibited from entering the rental unit by a no trespass order.
2. The matter was resolved by a consent order, LTB-L-039743-22, issued July 25, 2023. As part of the consent order the Tenant acknowledged he has a list of individuals who are

prohibited from entering the rental unit. The Tenant agreed, for a period of 12 months starting July 11, 2023, not to permit any unauthorized individuals into the rental unit.

3. The order provided that the Landlord could apply to the Board under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') without notice to the Tenant to terminate the tenancy and evict the Tenant if he failed to meet the conditions specified in the consent order.
4. At the hearing the Landlord's representative provided security footage showing six prohibited individuals entering the Tenant's unit on July 24, 2023, and July 25, 2023.

**File Number:** LTB-L-060220-23

5. More security footage showed another four prohibited individuals entering the Tenant's unit on August 14, 2023, and August 15, 2023.
6. The Tenant acknowledged the security footage and that the individuals that entered the Tenant's rental unit were prohibited from entering the residential complex.
7. The Tenant submits that he did not permit these individuals into the rental unit. He had guests stay at his unit who are unaware the individuals that entered the unit were prohibited from being there.
8. I have no reason to disbelieve the Tenant. However, the Tenant is responsible for the conduct of for his guests. The Tenant was aware of the consent order he entered into. He had an updated list of prohibited individuals. A reasonable Tenant would make his guests aware of prohibited individuals and instruct his guests to not allow anyone to enter the rental unit without his permission.
9. I have considered the evidence before the Board and find the Tenant breached order LTB-L-039743-22 by allowing unauthorized individuals to enter the rental unit.

#### *Relief from Eviction*

10. According to s. 83 of the Act when the Board hears an application for an order evicting a tenant, the Board must consider whether there are any circumstances that support granting relief from eviction.
11. While the Tenant showed remorse for what happened, the individuals that entered the rental unit present a safety risk to other Tenants. It was not just one authorized individual that entered the rental unit, it was multiple individuals on two separate occasions. On that basis, I am not satisfied that the Tenant would comply with any further conditional orders preserving the tenancy.

12. I find it appropriate to delay eviction until November 30, 2023. This would give the Tenant time to find a new place to live within his budget.
13. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act and find that it would not be unfair to postpone the eviction until November 30, 2023, pursuant to subsection 83(1)(b) of the Act.

**It is ordered that:**

1. LTB-L-039743-22 is cancelled.
2. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before November 30, 2023.
3. If the unit is not vacated on or before November 30, 2023, then starting December 1, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.

**File Number:** LTB-L-060220-23

4. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord on or after December 1, 2023.

**October 6, 2023**

**Date Issued**

15 Grosvenor Street, Ground Floor  
Toronto ON M7A 2G6

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Bryan Delorenzi

Member, Landlord and Tenant Board

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

In accordance with section 81 of the Act, the part of this order relating to the eviction of the Tenant expires on April 18, 2024 if the order has not been filed on or before this date with the Court Enforcement Office (Sheriff) that has territorial jurisdiction where the rental unit is located.