



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

**Citation:** Toronto Community Housing Corp v Higgins, 2023 ONLTB 50030  
**Date:** 2023-07-13 **File Number:**  
LTB-L-018621-23-SA

**In the matter of:** 907, 20 Falstaff Avenue Toronto  
ON M6L2C8

**Between:** Toronto Community Housing Corp Landlord

**And**

Maricia Higgins Tenant

Toronto Community Housing Corp (the 'Landlord') applied for an order to terminate the tenancy and evict Maricia Higgins (the 'Tenant').

The Landlord's application was resolved by order LTB-L-018621-23, issued on September 12, 2022. This order was issued without a hearing being held.

The Tenant filed a motion to set aside order LTB-L-018621-23.

The motion was heard by videoconference on May 9, 2023. The Tenant attended the hearing. The Landlord was represented at the hearing by Rahel Abera.

**Determinations:**

*The Breach*

1. The Landlord filed an application because the Tenant did not pay the rent the Tenant owes. This matter was settled by way of order TNL-368801-22 which required the Tenant to pay the outstanding arrears by way of a payment plan.
2. Under the order, The Tenant was required the Tenant pay \$350.00 towards the arrears on or before February 1, 2023. The order also required the Tenant to pay is rent in full and time until the rent arrears were paid in full.

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. The Landlord alleges the Tenant breached the order by failing to pay the arrears payment in full or before February 1, 2023. The Landlord further submits only periodic payments have been made since that time. As a result, the Landlord applied for an ex-parte order

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terminating the tenancy. The Landlord's request was granted pursuant to order LTB-L-018621-23.

5. This motion is brought pursuant to subsection 78(11) of the Act.
6. The Tenant submits she made the arrears payments as required. However, due to a bank error the money went into her sister's bank account instead of the Landlord's. She insists she has bank statements that support her submission; however, she did not provide them to the Board.
7. I do not accept the Tenant's explanation as to why she breached order TNL-368801-22. It does not seem logical that because of a bank error every payment since February 20, 2023 went into her sister's bank account by error. Even if the Tenant's story was true, her sister should have returned to the money to her, so she could make the payments to the Landlord.
8. Based on the evidence before me I find the Tenant has breached order TNL-368801-22 by failing to pay \$350.00 on or before February 1, 2023.

#### *Whether to Set Aside the Order*

9. As I have found the Tenant breached order TNL-368801-22 the issue before me is whether I am satisfied, having regard to all the circumstances, that it would not be unfair to set aside
10. The Tenant failed to make the arrears payment due on February 1, 2023. Since then, she has continued to only make partial payments toward the arrears, and the Tenant seems to have only entered this process to delay the eviction.
11. After considering all of the circumstances, I find that it would be unfair to set aside order LTB-L-018621-23.
12. The only remaining issue before the Board is when to lift the stay. I find a slight delay in lifting the stay is warranted. This will give the Tenant an opportunity to find a new place to live that is within her budget. The stay of order LTB-L-018621-23 shall be lifted on August 31, 2023.

**It is ordered that:**

1. The motion to set aside, order LTB-L-018621-23, is denied.
2. The stay of order LTB-L-018621-23 is lifted August 31, 2023.

**July 13, 2023**

\_\_\_\_\_ **Date Issued**

**Bryan Delorenzi**

Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor  
Toronto ON M7A 2G6

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