



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

**Citation:** 2753037 Ontario Inc. v Sahota, 2023 ONLTB 44884

**Date:** 2023-06-20

**File Number:** LTB-L-070393-22

**In the matter of:** 3813, 30 SHORE BREEZE DRIVE TORONTO  
ONTARIO M8V0J1

**Between:** 2753037 Ontario Inc. Landlord

**And**

Kevin Sahota Tenant

2753037 Ontario Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Kevin Sahota (the 'Tenant') and for an order to have the Tenant pay the rent they owe and for an order to have the Tenant pay compensation for damage they owe because the Tenant did not meet a condition specified in the order issued by the LTB on July 26, 2022 with respect to application LTB-L-029833-22.

The Landlord's application was resolved by order LTB-L-070393-22, issued on January 10, 2023. This order was issued without a hearing being held.

The Tenant filed a motion to set aside order LTB-L-070393-22.

The motion was heard by videoconference on April 3, 2023.

The Landlord attended the hearing. The Landlord was represented by Peter Lopez. The Tenant attended the hearing and was self-represented.

**Determinations:**

1. After considering all of the circumstances, I find that it would be unfair to set aside Board order LTB-L-070393-22.

2. The eviction was enforced around March 14, 2023, two months after the Board order was issued terminating the tenancy.
3. The Tenant's motion to set aside the eviction order issued by the Board on January 10, 2023 is denied.

**File Number:** LTB-L-070393-22

#### Background to the proceedings

4. The Landlord filed an L1 application for non-payment of rent which was scheduled to be heard on July 13, 2022. The application was resolved by consent order LTB-L-029833-22 issued on July 26, 2022.
5. 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 they failed to make the arrears and rental payments specified in the order.
6. The Tenant failed to pay to the Landlord the lawful month rent that was due on or before October 1, 2022 as ordered. Subsequently, the Landlord applied to the Board under section 78 of the Act for an order terminating the tenancy. The Board issued order LTB-L070393-22 on January 10, 2023 terminating the tenancy. The Tenant applied to set aside that order.

#### The Tenant's Motion

7. Subsection 78(9) of the Act provides that a tenant may make a motion to the Board, on notice to the applicant, to have an eviction order made under subsection 78(6) of the Act set aside within 10 days after the order made under that section was issued.
8. The Tenant filed a Motion to Set Aside an Ex Parte Order on March 14, 2023.
9. The Landlord filed the order with the Court Enforcement Office (Sheriff) who enforced the eviction approximately on month prior to the date of the hearing.
10. I am satisfied that the Tenant did not file their motion in compliance with subsection 78(9) of the Act. The Board's order was issued on January 10, 2023. The Tenant filed his motion with the Board on March 14, 2023, which is not within the statutorily required 10 day period of time stipulated under the Act. As such, I find that the Tenant's motion is not properly before the Board and the motion must be denied.

## The lifting of the stay

11. Subsection 78(11)(c) of the Act provides that if a tenant makes a motion to set aside a Board order, the Board shall, after a hearing, make an order lifting the stay of the order effective immediately or on a future date specified in the order.
12. As Board order LTB-L-070393-22 was enforced prior to the Tenant filing the motion, and the Tenant did not file the motion within the 10 day time frame provided for in the Act, there was no stay of the order for the Board to lift. As such, I will not consider making a determination on this issue.

**File Number:** LTB-L-070393-22

### **It is ordered that:**

1. The motion to set aside Order LTB-L-070393-22, issued on January 10, 2023, is denied.

**June 20, 2023**

**Date Issued**

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Emile Ramlochan

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.