



Order under Section 78 Residential Tenancies Act, 2006

Citation: 30 Gilder Drive Apts v Shears, 2023 ONLTB 42838

Date: 2023-06-13 **File Number:**
LTB-L-018193-23-SA

In the matter of: 1212, 30 Gilder Drive Toronto
ON M1K4P6

Between: 30 Gilder Drive Apts Landlord

And

Jamiel Shears and Tameka Tyrell Tenants

30 Gilder Drive Apts (the 'Landlord') applied for an order to terminate the tenancy and evict Jamiel Shears and Tameka Tyrell (the 'Tenants') because they breached a condition in order LTB-L-056504-22 issued on February 7, 2023.

The Landlord's application was resolved by order LTB-L-018193-23, issued on April 4, 2023. This order was issued without a hearing being held.

The Tenant filed a motion to set aside order LTB-L-018193-23.

The motion was heard by videoconference on April 24, 2023.

The Landlord's legal representative, S. Korman, and the Tenants attended the hearing.

Determinations:

1. After considering all of the circumstances, I find that it would not be unfair to set aside order LTB-L-018193-23, issued on April 4, 2023, for the reasons that follow.
2. The Landlord filed an L1 application for arrears. After a hearing, the Board issued a payment plan order. It was not a consent order. The Board Member imposed a payment plan of just over a year to pay off all the arrears, which was a payment plan proposed by the Tenants, and the Board Member instructed the Tenants to ensure that they paid the February 2023 rent on time.
3. The payment for February 2023 rent did not come through until February 3, 2023, and the Landlord filed an L4 application for breach of the payment plan order.

4. The Tenants testified that they made the rent payment on February 1, 2023, but there was an accidental transaction that left their account with insufficient funds. They said that they immediately rectified the problem, and their rent payment went through on February 3, 2023.
5. It is undisputed that the rent was paid on time in March and April, 2023.

Order Page 1 of 2

File Number: LTB-L-018193-23-SA

6. I find that, although the Tenants breached the payment plan, they did so inadvertently, and they immediately rectified the situation. They made subsequent payments on time and in full. In addition, the breach actually occurred before the order was issued.
7. Consequently, I find that the Tenants have so far demonstrated a good faith intention to abide by the payment plan, and they should be given an opportunity to make the payments and retain their tenancy.

It is ordered that:

1. The motion to set aside Order LTB-L-018193-23, issued on April 4, 2023, is granted.
2. Order LTB-L-018193-23, issued on April 4, 2023, is set aside and cannot be enforced.
3. Order LTB-L-056504-22, issued on February 7, 2023, remains unchanged.

June 13, 2023

Date Issued

Nancy Morris

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.

Order Page 2 of 2