



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

Citation: Hamilton Baptist N/P Homes v Ashlea Gebhart, 2023 ONLTB 40343

Date: 2023-05-31

File Number: LTB-L-004925-23

In the matter of: 34, 300 LIMERIDGE RD E
HAMILTON ON L9A5G8

Between: Hamilton Baptist N/P Homes Landlord

And

Ashlea Gebhart Tenant

Hamilton Baptist N/P Homes (the 'Landlord') applied for an order to terminate the tenancy and evict Ashlea Gebhart (the 'Tenant') and for an order to have the Tenant pay the rent they owe because the Tenant did not meet a condition specified in the order issued by the LTB on July 20, 2022 with respect to application LTB-L-009205-22.

A hearing was held to consider this application.

This application was heard by videoconference (VC#101) on May 16, 2023. Only the Landlord attended the hearing.

As of 10:12 a.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the Board. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

1. The prior order provided in paragraph 3 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 the Tenant did not meet certain condition(s) specified in the order. Paragraph 3 states the application must be made within 30 days of the breach.

2. Section 78 of the Act also requires the L4 application to be filed within 30 days of a breach.
3. This L4 application was filed with the Board and received by email on January 16, 2023. The Declaration submitted into the Tribunals Ontario Portal (TOP) on January 16, 2023

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states “The tenant was to pay January's rent in the amount of \$1,073.00 on January 1, 2023 and failed to make this payment. She is thus in breach of the agreement. The tenant was to make a payment of \$434.00 towards the arrears on January 1, 2023 and failed to make this payment. She is thus in further breach of the agreement.”

4. On review of the rent payment ledger, it was evidenced that the Tenant failed to pay October 1, 2022 rent in full and on time in the amount of \$820.00 and failed to repay the arrears payment of \$434.00 as required by the previous order in paragraph 2. The Tenant made a partial payment in November 2022 and has not paid any rent or payment of arrears for the month of December. The rent increased on January 1, 2023 to \$1,073.00 as this is a rent geared to income (RGI) unit. Subsequently, the Tenant has not paid any rent or made payments towards arrears from January to February 2023, paid full rent of \$1,073.00 in March but no payment towards rental arrears and no payments towards rent or arrears have been made for April and May 2023.
5. While the Tenant failed to meet the terms of the previous Board order as early as October 1, 2022, the Landlord did not apply to Board until January 16, 2023.
6. This application was not filed within 30 days of the breach.

It is ordered that:

1. The Landlord's application under section 78 of the Act is dismissed. There will be no eviction ordered since the application was not filed within 30 days of the breach.
2. The prior order in file number LTB-L-009205-22 issued July 20, 2022 remains in effect.

May 31, 2023

Date Issued

Alicia Johnson

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.

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