



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

Citation: A.G. Secure Property Management Inc. v Angela Payne, 2023 ONLTB 37865

Date: 2023-05-19

File Number: LTB-L-006330-23-SA

In the matter of: 9-67 Neywash Street
Orillia, ON L3V 1X2

Between: A.G. Secure Property Management Inc. Landlord

And

Angela Payne Tenants
Tia Payne

A.G. Secure Property Management Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Angela Payne and Tia Payne (the 'Tenants') and for an order to have the Tenants pay the rent they owe because the Tenants did not meet a condition specified in the order issued by the LTB on November 21, 2022 with respect to application CEL-04994-22-SA.

The Landlord's application was resolved by LTB-L-006330-23, issued on March 29, 2023. The Tenants filed a motion to set aside order LTB-L-006330-23 on April 4, 2023.

This motion was heard by teleconference on April 24, 2023.

The Landlord's Legal Representative Nicole Fazzari, the Landlord's agent Rob Hilton and the Tenants attended the hearing. The Tenants met with Tenant Duty Counsel prior to the hearing.

Determinations:

1. The order provides that the Landlord can apply to the LTB 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 does not meet certain condition(s) in the order. This application was filed within 30 days of the breach.
2. The Tenants acknowledged the breach and testified that although they had agreed to make the arrears payments every Friday starting December 2, 2022, until April 7, 2023, the Tenants failed to make any payments in December due to the payment schedule of the Tenant's daughter.
3. The Tenants testified that the total owing is now \$653.39, which will be paid in full. The Tenants testified that they are on disability and that if they are evicted they will be homeless.

4. The Landlord's Legal Representative submitted that the Tenants' arrears go back to 2020 in which there had been an agreement on consent in 2021, which led to a breach in 2022 where at the hearing the Tenants agreed with the payment plan they subsequently breached as a result.
5. Further, the Landlord's agent testified that the Tenants have not communicated to them any of their issues regarding their inability to keep up with their rent and arrears payments. The Landlord's Legal Representative does not believe the tenancy is viable due to the lack of consistent payments.

s. 78(11) Considerations

6. In accordance with s. 78(11) of the Act, I must consider all of the circumstances with respect to the Landlord's application and the Tenants' set aside motion.
7. While I certainly agree with the Landlord's Legal Representative the Tenants have had various issues keeping their rent up to date and paid on time, the Tenants have significantly reduced their arrears as of the date of the hearing.
8. I further consider the fact that the Tenants have been in the unit for 8 years and are on disability, which would create an undue hardship if the Tenants were evicted.
9. The set aside order will be granted however, the Tenants will be ordered to pay the balance of the purported arrears within 30 days of this order.

It is ordered that:

10. The motion to set aside order LTB-L-006330-23, issued on March 29, 2023, is granted.
11. Order CEL-04994-22-SA, issued on November 21, 2022 is cancelled and replaced with the following:
12. The Tenants shall pay to the Landlord \$653.39 by June 19, 2023.
13. The Tenants shall also pay to the Landlord the lawful rent in full and on time for the month of June 2023.
14. In the event the Tenants fail to make the above said payment in full and on time, the entire balance of the amount set out in this order will become due and payable forthwith under this order. The Landlord shall be entitled to apply to the Board, no later than 30 days after a breach of this Order, without notice to the Tenants, for an order terminating the tenancy and evicting the Tenants and for any arrears that become due after the date of this order, pursuant to s. 78 of the Act.

May 19, 2023
Date Issued

Jagger Benham
 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.