



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

**Citation:** Alexander Shapiro v Richard Barnett, 2023 ONLTB 36407

**Date:** 2023-05-12 **File Number:**  
LTB-L-004019-23-SA

**In the matter of:** UPPER LEVEL, 169 FLAGSTONE WAY  
NEWMARKET ON L3X2Z7

**Between:** Alexander Shapiro Landlord

**And**

Elizabeth Barnett, George Obiero Yoga, Tenants  
Michelle Swingler and Richard Barnett

Alexander Shapiro (the 'Landlord') applied for an order to terminate the tenancy and evict Elizabeth Barnett, George Obiero Yoga, Michelle Swingler and Richard Barnett (the 'Tenants') and for an order to have the Tenants pay the rent they owe and for an order to have the Tenants pay compensation for damage they owe because the Tenants did not meet a condition specified in the order issued by the LTB on November 16, 2022 with respect to application TNL-21354-19 & TNL-21355-19.

The Landlord's application was resolved by order LTB-L-004019-23, issued on November 16, 2022. This order was issued without a hearing being held.

The Tenant filed a motion to set aside order LTB-L-004019-23.

The motion was heard by videoconference on May 1, 2023. The Landlord's representative Elina Vasilieva, and the Tenant Elizabeth Barnett, attended the hearing.

The parties agree the Tenants owe the Landlord \$2,23.20 in arrears and costs to the end of May 2023.

### **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.

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2. The Tenants were making the required payments, but Ms. Barnett testified they were unaware of a \$43.30 rent increase which was the cause of the breach. The Tenants are prepared to pay the increased amount to preserve the tenancy.
3. Under the circumstances, I find it fair to grant relief from eviction under section 87.11(b) of the Residential Tenancies Act.

**It is ordered that:**

1. The motion to set aside Order LTB-L-004019-23, issued on November 16, 2022, is granted.
2. Order LTB-L-004019-23, issued on November 16, 2022, is set aside and cannot be enforced.
3. Orders TNL-21354-19 & TNL-21355-19 are cancelled and replaced with the following:
4. The Tenants shall pay to the Landlord \$2,723.20 plus rent as follows:
  - The Tenants shall pay to the Landlord the lawful rent plus \$200.00 on or before the 9<sup>th</sup> day of each consecutive month commencing May 2023 and continuing through May 2024.
  - The Tenants shall pay to the Landlord \$123.20 on or before June 9, 2024.
5. 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 Section 78 of the Residential Tenancies Act, 2006.

**May 12, 2023**

**Date Issued**

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Greg Joy

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.

