



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

Citation: BOARDWALK GENERAL PARTNERSHIP v Penny Dowling, 2023 ONLTB 36133

Date: 2023-05-09 **File Number:**
LTB-L-005444-23-SA

In the matter of: 103, 112 ARBOUR GLEN CRES
LONDON ON N5Y2A2

Between: BOARDWALK GENERAL PARTNERSHIP Landlord

And

Brian Bunn and Penny Dowling Tenants

BOARDWALK GENERAL PARTNERSHIP (the 'Landlord') applied for an order to terminate the tenancy and evict Brian Bunn and Penny Dowling (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 July 28, 2022 with respect to application LTB-L-002538-22.

The Landlord's application was resolved by order LTB-L-005444-23, issued on July 28, 2022. This order was issued without a hearing being held.

The Tenant filed a motion to set aside order LTB-L-005444-23.

The motion was heard by videoconference on May 1, 2023. The Landlord's representative Carla Livingstone, and the Tenants, attended 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 consent order required the Tenants to pay to the Landlord a total of \$5,234.93. Due to the breaches of that order, the Tenants now owe the Landlord \$13,216.47. The Tenants will also owe the Landlord May rent for a total amount owing of \$14,104.32 to the end of May 2023.

3. At the hearing the Tenants testified that they have a friend who will be returning from the United States on Thursday who will pay everything that the Tenants owe the Landlord.

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4. The parties were informed that if the Tenants paid the full amount by Friday, May 5, 2023, the motion would be granted. If the payment is not made in full, the motion will be denied.

It is ordered that:

Part “A”:

1. The Tenants shall pay to the Landlord \$14,104.32 on or before May 5, 2023. Should the Tenants make the payment in full and on time, the motion to set aside Order LTB-L005444-23, issued on July 28, 2022, is granted.
2. Order LTB-L-005444-23, issued on July 28, 2022, is set aside and cannot be enforced.

Part “B”:

3. Should the Tenants fail to pay to the Landlord \$14,104.32 on or before May 5, 2023, the motion to set aside Order LTB-L-005444-23, issued on July 28, 2022, is denied.
4. The stay of Order LTB-L-005444-23, is lifted immediately and Order LTB-L-005444-23 is unchanged.

May 9, 2023

Date Issued

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.

