



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

Citation: 23 Lynnwood Holding Inc. v Eileen Smith, 2023 ONLTB 35148

Date: 2023-05-09 **File Number:**
LTB-L-003064-23-SA

In the matter of: 204, 23 LYNNWOOD DRIVE
BRANTFORD ONTARIO N3S6S3

Between: 23 Lynnwood Holding Inc. Landlord

And

Eileen Smith and Kevin Smith Tenants

23 Lynnwood Holding Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Eileen Smith and Kevin Smith (the 'Tenants') because the Tenants did not meet a condition specified in the order issued by the LTB on August 16, 2022 with respect to application SOL27227-22.

The Tenant filed a motion to set aside order LTB-L-003064-23.

The motion was heard by videoconference on April 26, 2023. The Landlord's representative Kelly Hawkes, and the Tenant, represented by Joel Yinger, 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 Landlord claims the Tenant did not pay the monthly rent in full and on time.
3. The records show that the Tenant's rent is paid directly from the City of Brantford to the Landlord.

4. The Tenant testified that after the previous hearing she spoke to her worker about the rent being paid directly to the Landlord. The Tenant further testified that she will ask the City to have the rent paid by direct deposit to avoid any late payments.
5. Considering the fact that it is the City of Brantford paying the Landlord the rent on behalf of the Tenant, I find it would be unreasonable to terminate this tenancy if in fact the Landlord is not receiving the rent on or before the 1st day of each month.

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It is ordered that:

1. The motion to set aside Order LTB-L-003064-23, issued on August 16, 2022, is granted.
2. Order LTB-L-003064-23, issued on August 16, 2022, is set aside and cannot be enforced.

May 9, 2023

Date Issued

Greg Joy

Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor, Toronto
ON M7A 2G6

The Tenant has until May 19, 2023 to file a motion with the LTB to set aside the order under s. 78(9) of the Act. If the tenant files the motion by May 19, 2023 the order will be stayed and the If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.

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