



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

**Citation:** Stephen Mitchell v Ben Stewart, 2023 ONLTB 34056

**Date:** 2023-05-04 **File Number:**  
LTB-L-003707-23-SA

**In the matter of:** 1, 45 ONTARIO AVE  
HAMILTON ON L8N2X1

**Between:** Stephen Mitchell Landlord

**And**

Ben (Bengy) Stewart and Kyle Stewart Tenant

Stephen Mitchell (the 'Landlord') applied for an order to terminate the tenancy and evict Ben (Bengy) Stewart and Kyle Stewart (the 'Tenants') because the Tenants failed to meet a condition specified in the consent order issued by the Board on August 30, 2022 with respect to application SOL-22671-21.

The Landlord's application was resolved by order LTB-L-003707-23, issued on March 27, 2023. This order was issued without a hearing being held.

The Tenants filed a motion to set aside order LTB-L-003707-23.

This motion was heard in by videoconference (VC#101) on April 17, 2023.

The Landlord, the Landlord's representative, Lisa Louise Barder and the Tenant, Kyle Stewart attended the hearing. The Tenant confirmed that he had authority to make submissions on behalf of Ben Stewarts, his father, as he could not attend the hearing.

**Determinations:**

1. The Tenants failed to meet a condition specified in the order issued by the Board on August 30, 2022 with respect to application SOL-22671-21.

2. After considering all of the circumstances, and based on submission of the parties I find that it would be unfair to set aside order LTB-L-003707-23.
3. The stay of order LTB-L-003707-23 is lifted on May 1, 2023. The Tenant advised that the Tenants have plans to vacate the rental unit on May 1, 2023.

Order Page: 1 of 2

**File Number:** LTB-L-003707-23

2023 ONL TB 34056 (CanLII)

**It is ordered that:**

1. The motion to set aside Order LTB-L003707-23, issued on March 27, 2023, is denied.
2. The stay of order LTB-L003707-23 is lifted on May 1, 2023.
3. Order LTB-L003707-23 is unchanged.

**May 4, 2023**

**Date Issued**

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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.

