



**Order under Section 77(8)
Residential Tenancies Act, 2006**

Citation: Old Oak Properties Inc. v Stachowiak, 2023 ONLTB 26062

Date: 2023-03-28 **File Number:**
LTB-L-075234-22-SA

In the matter of: 602, 1595 DYER DR LONDON
ON N6G0T7

Between: Old Oak Properties Inc. Landlord

And

Michael Stachowiak Tenant

Old Oak Properties Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Michael Stachowiak (the 'Tenant').

The Landlord's application was resolved by order LTB-L-075234-22, issued on January 30, 2023. This order was issued without a hearing being held.

The Tenant filed a motion to set aside order LTB-L-075234-22.

The motion was heard by videoconference on March 1, 2023.

The Landlord's Agent, Renabelle King, and the Tenant attended the hearing.

Determinations:

1. The first issue on a motion to set aside such as this one is whether or not the Tenant breached the consent order issued on October 4, 2022.
2. The Tenant did not dispute that he failed to pay the monthly rent for October 2022 on or before October 1, 2022.
3. As such, I find that the Tenant breached the order issued on October 4, 2022.
4. Pursuant to subsection 78(11) of the *Residential Tenancies Act, 2006* (the 'Act'), when there has been a breach of an order, the next issue to determine is whether or not the Board is satisfied, having regard to all the circumstances, that it would not be unfair to set aside the order.
5. For the reasons set out below, I am satisfied that that it would be unfair to set aside the order.

6. Aside from failing to pay the rent for October 2022, the Tenant repeatedly breached the terms of the order issued on October 4, 2022. The Tenant has not paid any rent since October 2022. The arrears of rent up to March 31, 2023, are \$22,757.26.

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7. According to the Tenant, he ran into difficulties in October 2022. His father passed away sometime in early October 2022. Then, the Tenant lost his job because he spent too much time handling the estate. According to the Tenant, he had no income and had to withdraw monies from his RRSP to buy food.
8. The Tenant has now secured a new job; however, he has not been paid yet. The Tenant is also expecting to receive an inheritance soon; however, no further details were provided as to when or what the amount was.
9. The Tenant has been residing in the rental unit for almost three years. He is residing with his 16-year old son.
10. In accordance with subsection 78(11) of the Act, I have considered all of the disclosed circumstances and I am not satisfied, having regard to all the circumstances, that it would not be unfair to set aside the order. The evidence supports the conclusion that the Tenant is unable to pay the significant arrears and the monthly rent. The Tenant was informed of this decision at the hearing.
11. Considering the date of the hearing and the date of issue of this order, no delay of the lifting of the stay of order LTB-L-075234-22 is warranted.
12. The stay of order LTB-L-075234-22 is lifted immediately.

It is ordered that:

1. The motion to set aside Order LTB-L-075234-22, issued on January 30, 2023, is denied.
2. The stay of Order LTB-L-075234-22, is lifted immediately.
3. Order LTB-L-075234-22 is unchanged.

March 28, 2023

Date Issued

Jana Rozehnal

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.

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