



## **Order under Section 78 Residential Tenancies Act, 2006**

**Citation:** 5013420 Ontario Ltd. v Allen, 2023 ONLTB 26303

**Date:** 2023-03-21

**File Number:** LTB-L-000313-23

**In the matter of:** 1, 209 Dundas Street  
London ON N6A1G4

**Between:** 5013420 Ontario Ltd. Landlord

**And**

Chauntel Allen Tenant

5013420 Ontario Ltd. (the 'Landlord') applied for an order to terminate the tenancy and evict Chauntel Allen (the 'Tenant') and for an order to have the Tenant pay compensation for damage they owe because the Tenant did not meet a condition specified in the order issued by the LTB on October 25, 2022 with respect to application LTB-L-027384-22.

On January 31, 2023 the Board issued an endorsement to the parties directing the matter to a hearing.

This application was heard by way of videoconference on March 6, 2023. The Landlord's agent Osama Forani and legal representative Patrick Pacheco attended the hearing. As of 10:06am, the Tenant was not present, despite being served with notice of hearing by the Board.

### **Determinations:**

1. The prior 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. Order LTB-L-027384-22 orders the Tenant to refrain from engaging in conduct that seriously impairs or threatens to impair the safety of another person within the residential complex.
3. The Landlord's agent testified that on October 26, 2022 at approximately 4:00am, the Tenant was aggressively banging on a neighbouring residents front door and threatening to kill them. The individual threatened is the same complainant that gave rise to the original L2 application and the prior Board order.

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4. Based on the uncontested evidence before the Board, I am satisfied that the Tenant has breached the conditions of the prior order and that her conduct rises to the level of serious impairment of safety. In *Furr v. Courtland Mews Cooperative Housing Inc., 2020 ONSC 1175 (CanLII)* the Divisional Court confirmed that serious impairment of safety includes both actual impairment and a real risk of impairment.
5. The previous application also includes a request for an order for compensation for damage and the order requires the Tenant to pay an amount for damage. As of the hearing date, the Tenant had not paid the amount ordered in the previous order. Accordingly, the Landlord is entitled to request an order for compensation for damage.
6. The Tenant was required to pay \$1,386.00 for compensation for damage and the application filing fee in the previous order. The amount that is still owing from that order is \$1,386.00 and that amount is included in this order. This order replaces order LTB-L027384-22.

**Relief from eviction:**

7. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would not be unfair to postpone the eviction until April 30, 2023 pursuant to subsection 83(1)(b) of the Act.
8. The Tenant was not present at the hearing to dispute the Landlord's evidence or to provide the Board with an alternative to eviction. The uncontested evidence before the Board indicates that the Tenant breached the conditional order issued by the Board less than 10 days from the original hearing date. Further, the Landlord provided testimony that since filing the L4 application that the Tenant has continued to engage in conduct that seriously impairs the safety of another person within the residential complex and/or has caused wilful and/or negligent damage to the residential complex.

**It is ordered that:**

1. Order LTB-L-027384-22 is cancelled.
2. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before April 01, 2023.
3. If the unit is not vacated on or before April 01, 2023, then starting April 02, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
4. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord on or after April 02, 2023.
5. The Tenant shall pay to the Landlord \$1,386.00. This amount represents the unpaid compensation for damage and the costs related to the application fee for the previous application.

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6. If the Tenant does not pay the Landlord the full amount owing on or before April 01, 2023, the Tenant will start to owe interest. This will be a simple interest calculated from April 2, 2023 at 5.00% annually on the balance outstanding.

**March 21, 2023** \_\_\_\_\_ **Date Issued**

Fabio Quattrociochi

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.

In accordance with section 81 of the Act, the part of this order relating to the eviction expires on October 02, 2023 if the order has not been filed on or before this date with the Court Enforcement Office (Sheriff) that has territorial jurisdiction where the rental unit is located.