



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

Citation: Anastasakis v Cantwell, 2023 ONLTB 25698
Date: 2023-03-14 **File Number:** LTB-L-080003-22-SA and
LTB-L-074423-22-SA

In the matter of: 3, 19 MYRTLE AVE
Hamilton ON L8M2E8

Between: Emmanuel Anastasakis Landlord

And

Bradley Vinette and Joseph Cantwell Tenants

Emmanuel Anastasakis (the 'Landlord') applied for an order to terminate the tenancy and evict Bradley Vinette and Joseph Cantwell (the 'Tenants').

The Landlord's applications were resolved by order LTB-L-080003-22 and order LTB-L-07442322, issued on January 27, 2023. This order was issued without a hearing being held.

The Tenants filed a motion to set aside order LTB-L-080003-22 and LTB-L-074423-22-SA.

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

The Landlord and the Tenants attended the hearing.

Determinations:

1. The first issue on a motion to set aside such as this one is whether or not the Tenants breached the consent order issued on September 23, 2022.
2. The Tenants did not dispute that they failed to pay the Landlord \$803.00 on October 20, 2022, and the monthly rent on December 1, 2022.
3. As such, I find that the Tenants breached the order issued on September 23, 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. After considering all of the circumstances, I find that it would be unfair to set aside order LTB-L-080003-22 and LTB-L-074423-22.
6. I say this because there have been several other breaches of the order by the Tenants. The monthly rent is \$1,324.00. The Tenants have not paid rent for over five months. The

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arrears of rent have increased from \$2,408.00 (up to September 30, 2022) to \$7,517.00, as of the date of the hearing.

7. The Tenants appear to have no or minimal income. They have lost their jobs and despite efforts to obtain employment they were unable to do so.
8. According to the Landlord, he has exhausted his efforts to work with the Tenants in order to maintain the tenancy. The tenancy is no longer viable. The Landlord is facing extreme financial hardship and possible bankruptcy, should the tenancy continue under these circumstances.
9. 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 Tenants are unable to pay the arrears and the monthly rent.
10. The Tenants requested that the lifting of the stay of the order be delayed until March 31, 2023.
11. Considering all the circumstances, including the date of the hearing and the date of issuance of this order, I am not satisfied that the circumstances warrant the delay of the lifting of the stay of the order.
12. The stay of order LTB-L-080003-22 and LTB-L-074423-22 is lifted immediately.

It is ordered that:

1. The motion to set aside Order LTB-L-080003-22 and LTB-L-074423-22, issued on January 27, 2023, is denied.
2. The stay of Order LTB-L-080003-22 and LTB-L-074423-22, is lifted immediately.
3. Order LTB-L-080003-22 and LTB-L-074423-22 is unchanged.

March 21, 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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