



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

Citation: M.F. Arnsby Property Management LTD. v Desouza, 2023 ONLTB 23975

Date: 2023-03-08 **File Number:**
LTB-L-067701-22-SA

In the matter of: 8, 422 ONTARIO STREET
WOODSTOCK ONTARIO N4V1B4

Between: M.F. Arnsby Property Management LTD. Landlord

And

Brittany Desouza Tenant

M.F. Arnsby Property Management LTD. (the 'Landlord') applied for an order to terminate the tenancy and evict Brittany Desouza (the 'Tenant') because she failed to meet a condition specified in order SWL-56746-21 issued on August 11, 2022.

The Landlord's application was resolved by order LTB-L-067701-22, issued on January 12, 2023. This order was issued without a hearing being held.

The Tenant filed a motion to set aside order LTB-L-067701-22.

The motion was heard by videoconference on February 28, 2023.

Only the Tenant attended the hearing. The Landlord was not present or represented at the hearing although properly served with notice of this hearing by the LTB. The Board's record shows the Notice of hearing was mailed to the Landlord on February 16, 2023 and that mail has not been returned by Canada Post as undelivered. There was no record of a request to adjourn the hearing. The motion proceeded based on the Tenant's uncontested evidence only.

Determinations:

1. After considering all of the circumstances, I find that it would **not** be unfair to set aside order LTB-L-067701-22.

2. It came to the Tenant's attention in November 2022 that the Landlord never accepted her e-transfers for September's Rent and \$717.00 payment due on September 25, 2022. The Tenant testified she spoke to the Landlord, cancelled the e-transfers with her financial institution, and corrected the problem in December 2022 by making a lump sum payment of \$4,566.00 to the Landlord. This payment was corroborated by the Landlord's 2022 rent receipt statement dated February 20, 2023 provided at the hearing. Although the Tenant still owes the Landlord \$1,434.00 (arrears), the Tenant has paid all the new rent that came due including September 2022 to March 2023 rent charges.
3. Based on these unforeseen circumstances, and inference that the Landlord is not opposed to the motion having not attended this hearing, I find it reasonable to give the Tenant another opportunity to preserve this tenancy. The Tenant testified she started working again in January 2023 and commits to pay the outstanding arrears of \$1,434.00 by March 31, 2023.

It is ordered that:

1. The motion to set aside Order LTB-L-067701-22, issued on January 12, 2023, is granted.
2. Order LTB-L-067701-22, issued on January 12, 2023, is set aside and cannot be enforced.
3. Order SEL-56746-21 issued on August 11, 2022 is cancelled and replaced as follows.
4. On or before March 31, 2023, the Tenant shall pay the Landlord \$1,434.00 which represents the arrears owing to February 28, 2023.
5. If the Tenant fails to make any one of the payments in accordance with this order, the outstanding balance of any arrears of rent and costs to be paid by the Tenant to the Landlord pursuant to paragraph 4 of this order shall become immediately due and owing and the Landlord may, without notice to the Tenant apply to the Board pursuant to section 78 of the Act for an order terminating the tenancy and evicting the Tenant and requiring that the Tenant pay any new arrears, NSF fees and related charges that became owing after February 28, 2023.

March 8, 2023

Date Issued

Sandra Macchione

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.

File Number: LTB-L-067701-22-SA

