



## Order under Section 78(6) Residential Tenancies Act, 2006

**Citation:** Malleum Real Estate Management v Coolen, ONLTB 0

**Date:**

**File Number:** LTB-L-069592-22

**In the matter of:** 5, 1547 BARTON STREET EAST  
Hamilton ON L8H2X7

**Between:** Malleum Real Estate Management Landlord

**And**

Lauren Naylor and Tyler Coolen Tenants

Malleum Real Estate Management (the 'Landlord') applied for an order to terminate the tenancy and evict Lauren Naylor and Tyler Coolen (the 'Tenants') because the Tenants did not meet a condition specified in the order issued by the LTB on September 28, 2022 with respect to application LTB-L-023717-22.

The Landlord's application was resolved by order LTB-L-069592-22, issued on September 28, 2022. This order was issued without a hearing being held.

The Tenant Tyler Coolen filed a motion to set aside order LTB-L-069592-22.

The motion was heard on January 4, 2023. The Landlord's representative Robert Donmoyer, and the Tenant Tyler Coolen, attended the hearing.

The Tenant testified that Lauren Naylor has not lived in the rental unit. As there is no independent evidence to support this claim Ms. Naylor remains a named party to this application.

### Determinations:

1. The 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. No payments toward rent or arrears have been made since order LTB-L-023717-22 was issued.
3. First and last month rent were paid when the tenancy commenced on April 1, 2022 and no payments have been made since that time. The total amount of outstanding arrears are

now \$15,930.41, up from the \$9,216.13 when the Landlord consented to a repayment plan.

4. The lawful monthly rent is \$1,678.58. The Tenant testified that he has started working as a forklift driver making \$17.90 hourly. He is also attempting to get a second part-time job but has not yet secured one. The Tenant requested another repayment plan. The Tenant also testified that he currently has no money to make any payments to the Landlord.
5. The Landlord's representative opposed any further relief citing the income related to the rent as well as the fact that no payments have been made since April 2022 when the tenancy commenced.
6. I find it would be unfair in all the circumstances to grant any further relief from eviction.

**It is ordered that:**

1. The motion to set aside Order LTB-L-069592-22, issued on September 28, 2022, is denied.
2. The stay of Order LTB-L-069592-22, is lifted immediately.
3. Order LTB-L-069592-22 is unchanged.

**January 9, 2023**  
**Date Issued**

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Greg Joy

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.

