



Order under Section 78(11)
Residential Tenancies Act, 2006

File Number: CEL-93650-20-SA

In the matter of: UPPER LEVEL, 182 DUCKWORTH STREET
BARRIE ON L4M3W5

Between: Hamed Zahedi

and

Amanda Trinacty
Luke Spurling



Landlord

Tenants

Hamed Zahedi (the 'Landlord') applied for an order to terminate the tenancy and evict Amanda Trinacty and Luke Spurling (the 'Tenants') and for an order to have the Tenants pay the rent they owe because the Tenants failed to meet a condition specified in the mediated settlement issued by the Board on January 31, 2020 with respect to application CEL-90201-19.

The Landlord's application was resolved by order CEL-93650-20, issued on August 12, 2020. The first-named Tenant filed a motion to set aside order CEL-93650-20.

This motion was heard by videoconference on September 23, 2020.

The Landlord and the first-named Tenant attended the hearing. The Landlord was represented by Paul Mitchell.

Determinations:

1. The first issue before the Board is whether there was a breach of the order CEL-90201-19 as alleged by the Landlord. At the hearing, the first-named Tenant agreed that there was a breach; specifically, that the rent for March 2020 was not paid in full and by the first day of the month; and that the payment of \$125.00 was not paid on or before February 29, 2020.
2. This means that the next issue is whether or not the Board is satisfied, having regard to all the circumstances, that it would not be unfair to set aside the eviction order. (See: s. 78(11)(b) of the *Residential Tenancies Act, 2006* (the 'Act').)
3. By way of background, this tenancy began in October 2019 and the lawful monthly rent is \$1,750.00 and is due on the first of each month. The Tenant is a single mother living in the rental unit with her children.
4. The Tenant testified that she breached the order at the end of February and beginning of March 2020 because her partner, who is a seasonal worker, was abusive and gambled their money away. As they had no money, she could not meet the repayment

arrangement. Further, after her diagnosis of pelvic cancer, in December 2019, she stopped working. She testified that she did not qualify for the Canada Emergency Response Benefit but that it wasn't a priority for her as she was not well.

5. The Tenant seeks to delay the lifting of the stay to October 31, 2020. She testified that she has been working with a local women's shelter and needs until the end of October 2020 to arrange for alternative living accommodations. In exchange for the delay, she is prepared to pay \$640.00 to the Landlord.
6. On cross-examination, the Tenant also alleged issues with the rental unit such as no electricity in the kitchen, water being cut off and stated this occurred in March 2020. The Tenant confirmed that there was water in the bathroom, and that it was shut off when plumbing work was taking place at the premises. I informed the parties that this was not the proper forum for these issues and that there were alternative remedies for each party.
7. The Landlord opposed the Tenant's motion stating that since the breach, the Tenant has continued to breach and not made any payments, resulting in the arrears accruing to \$16,221.00 which is three times the amount since the original hearing date. Furthermore, the request for a delay in eviction of an additional month will result in a further accrual of arrears of \$1,750.00.

ANALYSIS

8. Based on the evidence before me, I find that there was a breach of the order dated January 31, 2020. This is undisputed by the parties.
9. With respect to setting aside the eviction order, it appears that this is not what the Tenant is seeking; rather, she is requesting additional time to move so this analysis is moot.
10. With respect to the request for relief in the form of a delayed eviction, I find that a further delay is unwarranted. I say this because it is a relatively short-term tenancy which only began twelve months ago, there are significant arrears in the amount of 16,221.00 as of the date of the hearing. Since then, another month's rent has also come due, increasing the arrears by another \$1,750.00.
11. An order shall issue accordingly, lifting the stay immediately.
12. This order contains all of the reasons for the decision within it. No further reasons shall be issued.

It is ordered that:

1. The motion to set aside Order CEL-93650-20, issued on August 12, 2020 is denied.
2. The stay of order CEL-93650-20 is lifted immediately.



October 14, 2020

Date Issued

Central-RO
3 Robert Speck Pkwy, 5th Floor
Mississauga ON L4Z2G5

Sonia Anwar-Ali

Member, Landlord and Tenant Board

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.