



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

Citation: Bolduc v Barton, 2023 ONLTB 77654

Date: 2023-11-28

File Number: LTB-L-069523-23-SA

In the matter of: 41 WOODERM DR
ST CATHARINES ON L2M4N6

Between: Eric Bolduc and Stephanie Charruau

And

Kirk Leslie Barton and Moira Shilling

I hereby certify this is a true copy of an Order dated
Nov 28 2023
[Signature]
Landlord and Tenant Board

Landlord

Tenant

Eric Bolduc and Stephanie Charruau (the 'Landlord') applied for an order to terminate the tenancy and evict Kirk Leslie Barton and Moira Shilling (the 'Tenants').

The Landlord's application was resolved by order LTB-L-069523-23, issued on September 21, 2023. This order was issued without a hearing being held.

The Tenants filed a motion to set aside order LTB-L-069523-23.

The motion was heard by videoconference on November 20, 2023.

Only the Landlord's Representative, Kurt Anderson attended the hearing.

The Tenants were not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing.

Determinations:

1. Since the Tenants did not appear at the hearing to support their motion, I find that this motion has been abandoned.
2. On a balance of probabilities, I find the Tenants abused the process by failing to attend the hearing having filed their motion to delay eviction. The Tenants are still in possession of the rental unit. The original order dated August 29, 2023, was a payment plan made on consent. The Tenants breached the first payment condition of the order which was due two weeks from the dated the consent was reached which suggest the payment plan was entered in bad faith. The arrears and fee in the Order issued on August 29, 2023, was \$17,186.00. The arrears have significantly increased because additional rent has come due, and the Tenants failed to make any payments. In addition, the premise of the motion was also that the Tenants thought the order issued on August 29, 2023, was void and were confused because of another application. The Landlord's Representative submits is

not unplausible since a hearing related to the other application took place before the August 15, 2023 hearing which is the date the consent payment plan was reached.

3. The Landlord incurred unnecessary legal costs to prepare and attend the motion hearing. The Tenants owe the Landlord costs of \$200.00 (\$100.00 x 2 hours) for abusing the process and not attending to support their motion. The Tenants are cautioned against wasting the Board's time and resources having to schedule and hold a motion hearing unnecessarily as similar conduct in the future may result in Board costs as well.
4. The stay of order LTB-L-069523-23 is lifted immediately.

It is ordered that:

1. The motion to set aside Order LTB-L-069523-23, issued on September 21, 2023, is denied.
2. The stay of Order LTB-L-069523-23, is lifted immediately.
3. Order LTB-L-069523-23 is unchanged.

November 28, 2023
Date Issued



Sandra Macchione
Member, Landlord and Tenant Board

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