



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

File Number: LTB-L-071028-24-SA

In the matter of: 4738 SIXTH AVE
NIAGARA FALLS ON L2E4T7

Between: Antonio De Simone
Jessica De Simone

And

Wesley Nixon
Kristen Adams

I hereby certify this is a
true copy of an Order dated
Dec 19, 2024
Landlord and Tenant Board

Landlords

Tenants

Antonio De Simone and Jessica De Simone (the 'Landlords') applied for an order to terminate the tenancy and evict Wesley Nixon and Kristen Adams (the 'Tenants') and for an order to have the Tenant pay the rent they owe because the Tenant did not meet a condition specified in the order issued by the LTB on August 16, 2024 with respect to application LTB-L-031149-24.

The Landlords' application was resolved by order LTB-L-071028-24, issued on September 17, 2024. This order was issued without a hearing being held.

The Tenants filed a motion to set aside order LTB-L-071028-24.

This motion was heard by videoconference on December 10, 2024.

The Landlords and one of the Tenants, Kristen Adams (KA), attended the hearing.

Determinations:

There was a breach of the previous order

1. There was no dispute that the Tenant failed to meet the conditions specified in the order issued by the LTB on August 16, 2024 with respect to application LTB-L-031149-24.
2. The Tenant did not pay the lawful rent for September 2024 plus \$3,000.00 towards the arrears owing on or before September 1, 2024.

The surrounding circumstances

3. After considering all of the circumstances, I find that it would be unfair to set aside order LTB-L-071028-24.
4. KA did not dispute that the payment terms in the prior order were not met. She stated that she can no longer afford this tenancy but has not been able to find alternate housing for

her and her two children, ages 8 and 10 years. She stated that her only income is Ontario Works and CCB, as she receives no child support from the children's father. She requested thirty days to find another place and vacate the rental unit.

5. The Landlords believe that the Tenants are taking advantage of the situation. They stated that they have tried to work with the Tenants both with respect to paying the amounts owed as well as finding alternate housing. The Landlords also stated that the Tenants agreed to make payments in August and then breached the following month and have not made any payments at all. The Landlords further stated that they are using their line of credit to maintain the payments for the rental unit and this is affecting their family as well.
6. The Tenants have not made any payments to the Landlords since the parties last appearance before the LTB in August 2024, the rent arrears owing have significantly increased, the Tenants are not able to pay any amount and maintain the tenancy, in these circumstances, I find that it would be unfair to set aside the order.


The stay is lifted on January 15, 2025

7. The stay of order LTB-L-071028-24 is lifted on January 15, 2025. KA has not found any alternative housing for her and her children and has reached out to community supports for assistance. KA requested an additional thirty days to vacate the rental unit. Given the time of year as this order would not be enforced until some time in January 2025 in any event, and that there are young children involved, I find that it would not be unfair to delay the lifting of the stay until January 15, 2025.

It is ordered that:

1. The motion to set aside Order LTB-L-071028-24, issued on September 17, 2024, is denied.
2. The stay of order LTB-L-071028-24 is lifted on January 15, 2025.
3. Order LTB-L-071028-24 is unchanged.

December 19, 2024
Date Issued



Lisa De Vecchio
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.