



Order under Section 74(11) Residential Tenancies Act, 2006

Citation: IJJ Properties Inc. v Kasterine, 2026 ONLTB 1671

Date: 2026-01-09

File Number: LTB-L-090545-23-SA

In the matter of: 1005, 555 SHEPPARD AVE W
Toronto ON M3H2R7

Between: IJJ Properties Inc. Landlord

And

Alexandre Kasterine Tenant

IJJ Properties Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Alexandre Kasterine (the 'Tenant') based on the fact that the Tenant did not pay rent.

The Landlord's application was resolved by a consent order issued on May 22, 2024 (the 'Hearing Order').

The Tenant filed a motion to set aside the Hearing Order.

I heard the Tenant's motion by videoconference on December 16, 2025. The Landlord and the Tenant attended the hearing. Martin Zarnett, Faith McGregor and Pavel Shetra (Student-at-Law) represented the Landlord. Kyle Warwick represented the Tenant.

I read and considered: (a) the factum delivered by the Tenant [DOC-6796786]; and (b) the factum delivered by the Landlord [DOC-6876109] and the documents filed by the Landlord [DOC-6876129]. I also heard from the Tenant and the Landlord.

Determinations:

I. Summary

1. This is a motion under section 74 of the *Residential Tenancies Act, 2006* (the 'RTA'). The relevant subsections say:

74 (11) A tenant may make a motion to the Board, on notice to the landlord, to set aside an eviction order referred to in subsection (3) if, after the order becomes enforceable but before it is executed, the tenant pays an amount to the landlord or to the Board and files an affidavit sworn by the tenant stating that the amount, together with any amounts previously paid to the landlord or to the Board, is at least the sum of the following amounts:

1. *The amount of rent that is in arrears under the tenancy agreement.*
2. *The amount of additional rent that would have been due under the tenancy agreement as at the date of payment by the tenant had notice of termination not been given.*
3. *The amount of NSF cheque charges charged by financial institutions to the landlord in respect of cheques tendered to the landlord by or on behalf of the tenant, as allowed by the Board in an application by the landlord under section 87.*
4. *The amount of administration charges payable by the tenant for the NSF cheques, as allowed by the Board in an application by the landlord under section 87.*
5. *The costs ordered by the Board.*

...

(13) An order under subsection (3) is stayed when a motion under subsection (11) is accepted for filing by the Board and shall not be enforced under this Act or as an order of the Superior Court of Justice during the stay.

(14) Subject to subsection (15), if a tenant makes a motion under subsection (11), the Board shall, after a hearing,

(a) make an order declaring the order under subsection (3) to be void, if the tenant has paid the amounts set out in subsection (11); or

(b) make an order lifting the stay of the order under subsection (3), if the tenant has not paid the amounts set out in subsection (11).

2. The Tenant does not assert that they paid all the amounts referenced in subsection 74(11). The Tenant asserts that because:
 - (a) they became bankrupt;
 - (b) certain of the amounts they are required by paragraph 74(11) to pay to the Landlord represent claims provable by the Landlord in their bankruptcy; and
 - (c) they received a discharge and the amounts they have not paid are not, for that reason, recoverable by the Landlord,

the LTB ought to set aside the Hearing Order on the basis that the Tenant has complied with the requirements of subsection 74(11). For the reasons below, I do not agree.

II. Facts

3. The parties agreed to the following facts:
 - (a) On October 30, 2023, the Landlord served the Tenant with an N4 notice of termination based on the failure of the Tenant to pay \$8,828.35 in rent.

- (b) The Tenant did not pay the arrears to void the notice and did not vacate the unit.
- (c) On November 16, 2023, the Landlord applied under section 69 of the RTA—an L1 application—asking the LTB to terminate the tenancy and evict the Tenant.
- (d) The application was heard on April 11, 2024, and resolved by the Hearing Order.
- (e) The Hearing Order: (i) terminated the tenancy; and (b) ordered the Tenant to vacate the unit by June 30, 2024.
- (f) The Tenant did not void the Hearing Order as contemplated by subsection 74(4) of the RTA and, on July 11, 2024, the Landlord filed the Hearing Order with the Court Enforcement Office (Sheriff).
- (g) On July 22, 2024, the Tenant became bankrupt as a result of filing a general assignment of the benefit of creditors under section 49 of the *Bankruptcy and Insolvency Act* (the 'BIA').
- (h) On July 25, 2024, the Tenant requested that the LTB review the Hearing Order, which request was dismissed by me in an order issued on August 15, 2024 (the 'Review Order').
- (i) On or about November 8, 2024, the Tenant appealed the Review Order to the Court but, on or about May 2, 2025, abandoned that appeal.
- (j) On or about June 20, 2025, the Landlord filed a motion with the Superior Court of Justice asking, among other things, that the automatic statutory stay that arose under section 69.3 of the BIA when the Tenant became bankrupt be lifted so that the eviction of the Tenant could be enforced by the Court Enforcement Office (Sheriff).
- (k) On August 21, 2025, the Superior Court of Justice made an order: (i) declaring that the arrears owed as to July 22, 2024 was a "claim provable", the recovery of which was stayed; and (ii) permitting the Landlord to enforce the Hearing Order by having the Court Enforcement Office (Sheriff) evict the Tenant. The Tenant did not appeal that order.
- (l) On August 28, 2025, the Landlord requested that the Court Enforcement Office (Sheriff) enforce the Hearing Order and evict the Tenant.
- (m) On September 23, 2025, before the Court Enforcement Office (Sheriff) had enforced the Hearing Order by evicting the Tenant, the Tenant filed this motion under subsection 74(11) of the RTA, which resulted in a stay that prevented the Hearing Order from being enforced and the Tenant evicted.
- (n) The Tenant has not paid to the Landlord all of the amounts required by subsection 74(11) of the RTA.
- (o) On April 24, 2025, the Tenant received a discharge under the BIA.
- (p) The Tenant has paid (occupation) rent since becoming bankrupt.

4. There is no dispute that the Landlord's claim for the amounts that have not been paid by the Tenant has been discharged and the Landlord cannot force the Tenant to pay that claim. The issue is whether the Tenant is required to pay the amounts to the Landlord to obtain from the LTB an order setting aside the Hearing Order to reinstate or revive the tenancy.

III. Operation of the RTA

5. Under the RTA, the termination of a tenancy and the eviction of the tenant—the delivery of possession of the unit to the landlord—are separate stages of the eviction process.
6. Where a landlord issues a notice of termination under section 59 of the RTA based on the failure of the tenant to pay rent—what happened in this case—and the tenant vacates the unit, there is no need for an eviction and the tenancy terminates on the date specified in the notice if the tenant voluntarily vacates. **[RTA, s. 37(2)]** If, however, the tenant does not vacate, section 39 of the RTA prohibits the exercise of 'self-help', and the landlord must apply for an order under section 69 of the RTA: (a) terminating the tenancy; and (b) evicting the tenant. The portion of the order evicting the tenant has the same effect and is enforced in the same manner as a writ of possession issued by the Superior Court. **[RTA, s. 85]**
7. Where an application under section 69 is granted, the LTB makes an order that (a) terminates the tenancy; and (b) provides for the eviction of the tenant by: (i) authorizing the landlord to file the order with the Court Enforcement Officer (Sheriff); and (ii) directing the Court Enforcement Officer (Sheriff) to return (vacant) possession of the unit to the landlord after a specific date. The RTA entitles the landlord to daily compensation—occupation rent—from the date of the order—the date the tenancy is terminated—until the tenant vacates the unit. **[RTA, s. 86]**
8. After a tenancy has been terminated, it cannot, subject to subsection 74(4) and (11) of the RTA, be reinstated without the consent of the landlord. **[See RTA, s. 45(b) and Rules of Civil Procedure, Rule 60.10]**
9. In this case, the tenancy was terminated by the LTB on May 22, 2024—before the Tenant became bankrupt—but the Court Enforcement Officer (Sheriff) had not yet evicted the Tenant—turned over vacant possession of the unit to the Landlord—when the Tenant became bankrupt on July 22, 2024. In those circumstances, the Tenant's remedy was to apply to the LTB for an order setting aside or voiding the Hearing Order to reinstate the (terminated) tenancy so that they could remain in the unit.
10. The issue before me was whether the Tenant had complied with subsection 74(11) of the RTA such that the Hearing Order ought to be set aside.¹

IV. Interpretation of the RTA

11. The Tenant's primary argument was that the LTB should interpret subsection 74(11) of the RTA as not requiring actual payment by the Tenant to the Landlord of the unpaid amounts. The Tenant argued, essentially, that where a tenant receives a discharge under the BIA, the

¹ The Hearing Order was enforceable on June 30, 2024. As a result, subsection 74(4) is not available to the Tenant.

effect of that discharge is equivalent to the tenant having paid all claims provable against the tenant and subsection 74(11) should be interpreted in that manner.

12. I do think that subsection 74(11) RTA can be interpreted in the manner as suggested by the Tenant.
13. Subsection 74(11) is specific: it requires that a tenant who wishes to obtain from the LTB an order made under section 69 of the RTA must pay an amount to the landlord or the LTB that is at least equal to the sum of:
 - (a) the amount of the rent that is in arrears under the tenancy agreement;
 - (b) the amount of additional rent that would have been due under the tenancy agreement as at the date of payment by the tenant had notice of termination not been given;
 - (c) the amount of NSF cheque charges charged by financial institutions to the landlord in respect of cheques tendered to the landlord by or on behalf of the tenant, as allowed by the LTB;
 - (d) the amount of administration charges payable by the tenant for the NSF cheques, as allowed by the LTB; and
 - (e) any costs ordered by the LTB. [RTA, s. 74(11)]
14. It is only if the tenant has paid this amount that the LTB has jurisdiction—is required in fact—to set aside the order made under section 69 to reinstate or revive the tenancy. **[RTA, s. 74(14)(a)]**
15. The Tenant argued that the requirement of subsection 47(11) that the Tenant pay to the Landlord '[t]he amount of rent that is in arrears under the tenancy agreement' should be interpreted to require payment only arrears that the Landlord is 'lawfully entitled to enforce' against the Tenant and the fact that any claim for arrears owed as at the date the Tenant became bankrupt has been discharged—are not recoverable by the Landlord—means the Tenant is not required to pay that amount. I do not accept that argument.
16. The sections of the RTA, like all legislation, are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the RTA, the object of the RTA, and the intention of the Legislature. **[See *Onyskiw v. CJM Property Management Ltd.*, 2016 ONCA 477 (CanLII)]**
17. There is no dispute that the Landlord cannot, as a result of section 178(2) of the BIA, force the Tenant to pay any amounts that constitute 'claims provable'. I do not, however, think this necessarily means that the arrears have ceased to be 'rent that is in arrears under the tenancy agreement' within the meaning of subsection 74(11) or that the fact a claim for an amount a tenant is required to pay under subsection 74(11) has been discharged ought to mean the tenant does not have to pay this amount to secure an order under subsection 74(11) reinstating or reviving a tenancy.

18. One of the purposes of the RTA is to balance the rights and responsibilities of residential landlords and tenants. **[RTA, s. 1]** That balancing of rights and responsibilities is reflected in the provisions of the RTA that allow a tenant who has not paid rent multiple opportunities to preserve or reinstate a tenancy.
19. A tenant who received a notice of termination based on the failure of the tenant to pay rent can void the notice by 'curing' the default. **[RTA, s. 59(3)]** Where a tenant does not void a notice of termination and the landlord files an application under section 69, the tenant can discontinue the application by 'curing' the default. **[RTA, s. 74(2)]** Where the LTB has made an order terminating a tenancy, but the order has not yet become enforceable, the tenant can void the order and reinstate the tenancy by 'curing' the default. **[RTA, s. 74(4)]** Where an order terminating a tenancy has become enforceable, but the Court Enforcement Office (Sheriff) has not yet evicted the tenant, the void the order and reinstate the tenancy by 'curing' the payment default. **[RTA, s. 74(11)]**
20. In the context of subsection 74(11)—where a tenant is asking the LTB to reinstate a terminated tenancy—the phrase 'the amount of rent that is in arrears under the tenancy agreement' does not refer to what amount is recoverable by the landlord. It refers to an amount specified in the order that the tenant is asking to be set aside.
21. Subsection 74(3) of the RTA requires that the LTB specify in an order made under section 69 'the amount of rent that is in arrears under the tenancy agreement'. **[RTA, s. 74(3)(a)(i)]** Subsection 74(11), in turn, requires that the tenant pay:
 - (a) the amount of rent that is in arrears under the tenancy agreement—the amount specified in the order the tenant is asking the TLB to set aside; and
 - (b) any additional (occupation) rent that would have been due under the tenancy agreement as at the date of payment by the tenant had notice of termination not been given.
22. I do not accept the Tenant's argument that interpreting subsection 74(11) to require that a tenant pay a discharged debt would offend the presumption that legislation is constitutionally compliant. In my view, the BIA specifically contemplates the operation of subsection 74(11).
23. Subsection 72(1) and section 146 of the BIA say:

72 (1) *The provisions of this Act shall not be deemed to abrogate or supersede the substantive provisions of any other law or statute relating to property and civil rights that are not in conflict with this Act,*

146 *Subject to priority of ranking as provided by section 136 and subject to subsection 73(4) and section 84.1, the rights of lessors are to be determined according to the law of the province in which the leased premises are situated.*
24. In my view, these sections of the BIA specifically contemplate the application of provisions such as subsection 74(11) of the RTA, notwithstanding that the tenant may be bankrupt.

25. Subsection 72(1) contemplates the operation of provincial legislation that does not conflict with the BIA. As described further below, subsection 74(11) does not, in my view, conflict with the BIA.
26. Section 146 of the BIA permits the operation of provincial landlord and tenant legislation where a tenant becomes bankrupt, except that legislation alters the ranking and priority of a landlord's claim to a distribution from the tenant's bankruptcy estate. **[See *In Re Gingras Automobile Ltee*, 1962 CanLII 79 (SCC), *Sawridge Manor Ltd. v. Western Canada Beverage Corp.*, 1995 CanLII 641 (BC CA) and *Linens 'N Things Canada Corp. (Re)*, 2009 CanLII 25311 (ON SC)]** Subsection 74(11) does not, in my view, alter the distribution of the Tenant's property among their creditors.
27. I note that subsection 74(11) serves the same essential function as relief from forfeiture in the context of a commercial insolvency. While there is limited authority on the issue, in *Wescraft Manufacturing Co. Ltd. Estate* **[1994 CanLII 2883 (BC SC)]** the Superior Court of British Columbia ordered that a (commercial) tenant who had filed a proposal pay all of the arrears—including arrears that were 'provable'—as a condition of being granted relief from forfeiture.
28. I also note that requiring payment of a 'provable' claim is not unique to residential tenancies. The *Commercial Tenancies Act*, for example, contemplates that a bankruptcy trustee may assign a commercial lease subject to the payment of 'all arrears of rent'. **[Commercial Tenancies Act, s. 38(2)]** Similarly, the BIA contemplates that, where any agreement is going to be assigned by a bankruptcy trustee, all monetary defaults under that agreement must be remedied—paid. **[BIA, ss. 66(1) and (1.1)]**

V. Constitutional Question

A. Notice of Constitutional Question

29. The Tenant delivered a Notice of Constitutional Question to the Attorney General of Ontario and to the Attorney General of Canada as required by the *Courts of Justice Act*. **[DOC-6511855]** The Attorney General of Canada did not respond. The Attorney General of Ontario delivered a 'no action' letter indicating they would not intervene. **[DOC-6618170]**

B. Jurisdiction of the LTB

30. Section 174 of the RTA gives the LTB authority to hear and determine all questions of law and fact with respect to all matters within its jurisdiction under this RTA. Nothing in the RTA prevents the LTB from determining the constitutional validity of the RTA. **[Nova Scotia (Workers' Compensation Board) v. Martin, 2003 SCC 54 (CanLII)]**

C. Previous Order

31. In *De Greens Family Holdings Corp v Barrett* **[2025 ONLTB 1390 (not yet reported)]**, I considered and determined the same constitutional issue as is raised by the Tenant
32. The Tenant invited me to revisit—change—my finding in *De Greens* that there is no constitutional conflict between subsection 74(11) of the RTA and the BIA. I have considered

the Tenant's arguments and decline to change my conclusion in *De Greens* that there is no conflict between subsection 74(11) of the RTA and the BIA.

D. Constitutional Conflict

33. A constitutional conflict arises in one of two situations:
- (a) the two pieces of legislation cannot operate together in the sense that it is impossible to comply with both, or
 - (b) although it is possible to comply with both pieces of legislation, the operation of the provincial law frustrates the purpose of the federal enactment. [***Alberta (Attorney General) v. Moloney*, 2015 SCC 51 (CanLII), para 18**]
34. The Tenant asserted that subsection 74(11) of the RTA conflicts with subsection 178(2) of the BIA, which says:
- 178 (2)** *Subject to subsection (1), an order of discharge releases the bankrupt from all claims provable in bankruptcy.*
35. There is no dispute that: (a) the amounts the Tenant has not paid as required by subsection 74(11) are not referred to in subsection 178(1) of the BIA; and (b) constitute 'claims provable' against the Tenant and are not recoverable by the Landlord as against the Tenant—the Landlord cannot force the Tenant to pay—as a result of subsection 178(2).

a. Operational Conflict

36. An operational conflict exists where it is not possible to comply with both the valid federal and valid provincial legislation. In *Moloney* and *407 ETR*, for example, the majority found there was an operational conflict between provincial legislation that effectively required that a person pay a debt that had been discharged to retain driving-related privileges. This was based on a finding that the legislation in issue gave inconsistent answers to the question as to whether there was an enforceable obligation, with the BIA saying the creditor could not enforce the discharged claim and the provincial law requiring payment of that same claim. [***Alberta (Attorney General) v. Moloney*, 2015 SCC 51 (CanLII) paras 60-69 and *407 ETR Concession Co. v. Canada (Superintendent of Bankruptcy)*, 2015 SCC 52 (CanLII) para 25**]
37. The Tenant argued that there is an operational conflict between subsection 74(11) of the RTA and subsection 178(2) of the BIA because: (a) subsection 178(2) of the BIA prevents the Landlord from recovering from them arrears that existed when the Tenant became bankrupt; and (b) subsection 74(11) of the RTA requires that the Tenant pay to the Landlord those arrears to revive and continue the tenancy. I do not accept that argument and find, as I did in *De Greens*, that there is no operational conflict.
38. There is no dispute that to reinstate and continue the tenancy, the Tenant will have to pay a claim that has been discharged. However, unlike in *Moloney* and *407 ETR*, the operation of subsection 74(11) of the RTA does not permit the government to terminate or withhold a privilege to force the payment of a discharged debt. There is, in my view, a distinction

between legislation that permits the government to withhold a privilege based on the fact that a debtor has not paid a discharged claim and legislation that permits a debtor to force a private party to contract with them so long as they pay a discharged claim. As was noted by the Supreme Court in *Moloney*, subsection 178(2) of the BIA does not prevent an arrangement between a debtor and a non-governmental creditor to pay a discharged debt in the context of an arrangement where the debtor receives some benefit.² [***Alberta (Attorney General) v. Moloney*, 2015 SCC 51 (CanLII)**]

39. The effect of subsection 74(11) is not to prevent the Tenant from continuing a subsisting tenancy unless they pay a discharged debt. Subsection 74(11) (re)imposes on the Landlord the terminated tenancy on the payment of the amount specified in subsection 74(11)—the Landlord is forced to accept reinstatement of the validly terminated tenancy in return for payment of the amount required to ‘cure’ the payment default that resulted in the tenancy being terminated.
40. At the time subsection 74(11) becomes relevant, a tenant has had multiple opportunities to either: (a) pay the arrears to preserve the tenancy; or (b) initiate proceedings under the BIA to prevent the landlord (or the LTB) from terminating the tenancy.
41. Subsection 74(11) provides a (former) tenant with a benefit by allowing them to reinstate a terminated tenancy and their statutory security of tenure—to continue to occupy the unit under the same terms and at the same rent subject to the ongoing protection of section 38 of the RTA—in return for paying the amounts specified in subsection 74(11). Were it not for subsection 74 (11), a tenant would have to negotiate with the landlord and the landlord would be required to agree to reinstate the tenancy. In that scenario, the BIA would not prohibit the landlord from requiring that the tenant pay the arrears in exchange for the landlord agreeing to reinstate the tenancy. Subsection 74 (11) of the RTA removes the necessity of obtaining the landlord’s agreement to reinstate the tenancy—it removes the landlord’s right to decide who occupies their unit as a tenant and substitutes a statutory right to have the arrears that resulted in the termination of the tenancy paid.
42. As noted above, section 146 of the BIA specifically contemplates that the RTA will determine the rights of landlords.

b. Frustration of Purpose

43. I am also unable to find that subsection 74(11) frustrates a purpose of the BIA.
44. In the case of an individual, bankruptcy has two main purposes:
 - (a) the equitable distribution of the bankrupt’s property among their creditors; and
 - (b) the financial rehabilitation of the bankrupt. [***See, for example, Husky Oil Operations Ltd. v. Minister of National Revenue*, 1995 CanLII 69 (SCC) and *Alberta (Attorney General) v. Moloney*, 2015 SCC 51 (CanLII)**]

² It is worth noting that Parliament decided to not adopt a 2003 recommendation by the Senate Standing Committee on Banking, Trade and Commerce that the BIA be amended to restrict what is often referred to as the ‘reaffirmation’—voluntary payment by a debtor—of a discharged claim.

Equitable Distribution

45. The equitable distribution of a bankrupt's property among their creditors is achieved through what is referred to as the 'single proceeding model' under which creditors of the bankrupt must participate in one collective proceeding. This is facilitated by: (a) the stay imposed by section 69.3 of the BIA; and (b) the distribution regime established by the BIA. [***Alberta (Attorney General) v. Moloney*, 2015 SCC 51 (CanLII), paras 33-35**]
46. In both *Moloney* and 407 ETR, the majority found that provincial legislation that requires a debtor to pay a discharged claim does not frustrate the equitable distribution of the debtor's property among creditors. [***Alberta (Attorney General) v. Moloney*, 2015 SCC 51 (CanLII), para 84-89 and 407 ETR Concession Co. v. Canada (Superintendent of Bankruptcy), 2015 SCC 52 (CanLII), para 32] I do not think requiring the Tenant to pay the arrears to reinstate the tenancy has any impact on the distribution of the Tenant's property among creditors as contemplated by the BIA. The Tenant will not be able to use property that has vested in the trustee for distribution among their creditors to pay the amounts required by subsection 74(11).**

Financial Rehabilitation

47. In assessing whether subsection 74(11) of the RTA frustrates the financial rehabilitation of a debtor, I am required to consider how—the legislative means by which—Parliament contemplated the financial rehabilitation objective would be achieved.
48. Discharging claims against a bankrupt is not, in and of itself, a policy objective of the BIA. The discharge of claims is in furtherance of the objective of financially rehabilitating the bankrupt, which is achieved through:
 - (a) the discharge of the honest but unfortunate debt from the burden of certain, but not all, their pre-bankruptcy debts;
 - (b) staying creditors from exercising remedies against the bankrupt and their property to recover claims provable in the bankruptcy;
 - (c) exempting certain of the bankrupt's property from being distributed among creditors; and
 - (d) restricting the termination of pre-bankruptcy contracts, including tenancy agreements. [***See Alberta (Attorney General) v. Moloney*, 2015 SCC 51 (CanLII), paras 36-39 and 77**]
49. In the case of an individual tenant who becomes bankrupt, the BIA restricts the ability of their landlord—or the LTB—to terminate the tenancy based on arrears owed when the tenant became bankrupt. [**BIA, s. 84.2**] However, no section of the BIA contemplates the revival or reinstatement of an agreement that was validly terminated before the debtor became bankrupt. Where an agreement is validly terminated before a counterparty

becomes bankrupt, the agreement is not ‘revived’ by the bankruptcy—the BIA preserves the *status quo*. [See *Walgre Transport Inc. (Re)*, 2025 ONSC 7143 (not yet reported)]³

50. I am unable to find that requiring the Tenant to pay the arrears to reinstate the terminated tenancy frustrates their financial rehabilitation. As was noted by the majority in *Moloney*, a debtor is not prohibited from paying a discharged claim where the debtor receives consideration in return and, as noted above, subsections 74(11) contemplates that the Tenant will receive good consideration in return for paying the otherwise discharge claim for arrears—the revival of the terminated tenancy and the continuation of their security of tenure without the consent of the Landlord.

VI. Other Tenant Arguments

51. In their factum, the Tenant ‘covered all of their bases’ and made various arguments, including attempting to distinguish *De Greens* and arguing that the cases that have determined that the enforcement of an order made under section 69 of the RTA by the Court Enforcement Office (Sheriff) is not a ‘claim provable’ were wrongly decided. While I considered each of these arguments, I found none of them compelling. In particular, I do not think there is any merit to the arguments that:
- (a) the various reported cases in which the Superior Court has found that the enforcement of an order made under section 69 by the Court Enforcement Officer (Sheriff) does not constitute a ‘claim provable; or
 - (b) section 74 of the RTA involves the termination of the tenancy based on the refusal of the tenant to pay rent.

VII. Condition—Delayed Eviction

52. The Tenant is a senior on a limited income and suffers from medical issues. They do not speak English and have no family in Canada. [See *IJJ Properties Inc. v Kasterine*, 2024 ONLTB 46151 (not yet reported)] I accept the Tenant’s assertion that they will find it difficult to locate alternate rental accommodations at the same rent they are paying under the (terminated) tenancy.
53. The filing of this motion by the Tenant resulted in the enforcement of the Hearing Order—the eviction of the Tenant—being stayed pending the LTB determining whether the Hearing Order ought to be set aside. [RTA, s. 74(13)]
54. The RTA does not specifically permit the LTB to delay the eviction of the tenant where a motion under subsection 74(11) is dismissed. The RTA says that, where the LTB determines that the tenant has not paid the amounts required to set aside a hearing order, the LTB will make an order lifting the stay to permit the Landlord to enforce the hearing

³ In *Bock inc. (Arrangement relating to)*, 2013 QCCS 1723 (CanLII), leave to appeal refused 2013 QCCA 851 (CanLII) the Quebec Superior Court decided that it had jurisdiction under *the Companies’ Creditors Arrangement Act* (the ‘CCAA’) to make a ‘safeguarding’ order to suspend the effect of the termination of a contract while the counterparty to the contract was attempting to reorganize under the CCAA. Issues were raised regarding the validity of the termination, which were later found to have merit: see *Bock Capital inc. v. CNH Industrial Canada Ltd.*, 2024 QCCS 1486 (CanLII).

order. **[RTA, s. 74(11)]** However, subsection 201(1) of the RTA gives the LTB jurisdiction to include in an order whatever conditions it considers fair in the circumstances.

55. In this case, I think it is fair to make the dismissal of the Tenants' motion and the lifting of the stay 'conditional' on the Tenant having until April 30, 2026 to vacate the unit by imposing the condition that the stay of the Hearing Order will not be lifted until April 30, 2026.
56. The Tenant has been paying rent to the Landlord since they became bankrupt. The only amounts owed to the Landlord are a 'provable claim' and have been discharged. I expect that the Tenant will continue to pay rent until the earlier of: (a) vacating the unit; and (b) April 30, 2026.
57. In the event the Tenant is able, before April 30, 2026, to pay the remaining amounts required to satisfy the requirement of subsection 74(11), I will consider a motion by the Tenant to waive subsection 74(12) of the RTA or vary this order to declare the motion a nullity. There is, it seems to me, a reasonable argument that this motion should not have been accepted for filing by the LTB since the Tenant had not, when they filed the motion, complied with subsection 74(11). **[RTA, s. 74(11.1). See *Reed and Rosen, 2024 ONLTB 21769 (CanLII)***

It is ordered that:

1. The motion to set aside the Hearing Order is dismissed.
2. The stay of the Hearing Order is lifted on April 30, 2026.

January 9, 2026

Date Issued

E. Patrick Shea

Vice Chair, 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.