



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

Citation: DONLAR HOLDINGS INC v OVELSON, 2026 ONLTB 10869

Date: 2026-02-05

File Number: LTB-L-109448-25-SA

In the matter of: 3, 640 VICKERS ST N
THUNDER BAY ON P7C4B7

Between: DONLAR HOLDINGS INC Landlord

And

MORGAN OVELSON Tenants
WAYNE SCHWANDT

DONLAR HOLDINGS INC (the 'Landlord') applied for an order to terminate the tenancy and evict MORGAN OVELSON and WAYNE SCHWANDT (the 'Tenants') and for an order to have the Tenants pay the rent they owe because the Tenants did not meet a condition specified in the mediated settlement signed by the parties on September 18, 2025 with respect to application LTB-L-056257-25.

The Landlord's application was resolved by order LTB-L-109448-25, issued on January 9, 2026. This order was issued without a hearing being held.

The Tenants filed a motion to set aside order LTB-L-109448-25. This motion was heard by videoconference on January 28, 2026.

The Landlord's agent, R. Wolframe, the Tenants and the Tenants' legal representative, C. Soke, attended the hearing.

Determinations:

Tenants Adjournment Request

1. At the start of the hearing, the Tenants representative requested to adjourn the hearing on the basis that the Tenants expect to receive funding from the Housing Security Fund that would cover the total arrears owing. Payment is expected to be received within the next two weeks.
2. The Landlord is opposed. The Landlord's agent takes the position that the Tenants have failed to provide documentary evidence to support that they will receive funding.

Additionally, this is the third time the Tenants appear before the Board. The Landlord does not have faith that payment will be made.

3. After considering the parties submissions, the adjournment request is denied. Considering that the alleged funding is expected to be received within a two-week period, the Tenants can make their submissions of payment as section 83 considerations.

Alleged Breach

4. It was undisputed that the Tenants failed to meet a condition specified in the mediated settlement signed by the parties on September 18, 2025 with respect to application LTB-L-056257-25.
5. It was undisputed that the Tenants have continuously been short on their arrear's payment by 17 cents.

The Surrounding Circumstances

6. The Tenant, Wayne Schwandt (WS), testified that they could not remember the total amount of arrears they were required to pay. WS testified that due to the animosity between them and the Landlord's agent, Ryan Wolframe (RW), WS did not think to call RW to confirm the correct amount of arrears that had to be paid.
7. WS further testified that they were living off their savings that unfortunately depleted, preventing them to pay for December 2025 and January 2026 rent. WS testified that she started to receive OW as of January 19, 2026. Her daughter, the second named Tenant is also on OW. WS testified that they now have the funds to pay for January 2026 rent. WS further asserts that they can pay for February rent on February 1, 2026.
8. The Tenants representative submits that the Tenants have applied for housing support from the Housing Security Fund. In her experience, the Tenants financial status qualifies them to receive funding for the total amount of the arrears owing.
9. It is undisputed that the total arrears owing to January 31, 2026 total \$6,200.13.
10. The Tenants representative further asserts that the Tenants have applied to the Canada Ontario Housing Benefit which would provide the Tenants with an RGI subsidy reducing the lawful rent the Tenants would be responsible for. The subsidy would ensure that the Tenants housing is more affordable reducing the risk of any further arrears. In the circumstances, the Tenants request a two-week delay to pay off all of the arrears owing, in the alternative, the Tenants request a voidable order to February 15, 2026 to allow the funding for the arrears to come through.
11. The Landlord is opposed pursuant to the reasons described in paragraph 2 of this order. The Landlord requests that the motion be denied, and the stay be lifted immediately. When asked what the Landlord's prejudice would be on a two-week delay to bring the account up to date, RW was unable to answer. The Landlord takes the position that the Tenants will fall back into arrears and that granting the motion would signify that Board orders don't carry any weight.

12. On a motion pursuant to subsection 78(11) of the Act, the Board can make an order setting aside the eviction order, if the Board is satisfied, having regard to all the circumstances, that it would not be unfair to do so.
13. The Tenants have applied to the Housing Security Fund to clear off all of the arrears owing. Although the Tenants did not provide documentary evidence in support of their application, their legal representative stated that the application has been submitted and that based on her experience, the arrears will be paid in full within a two-week period. Legal representatives are governed and licensed by the Law Society and are held at a higher standard, as such, I found the Tenants representative submissions credible, I accept it. It was also WS direct testimony that they can pay January rent immediately and have the ability to pay February rent on February 1, 2026.
14. The Act is remedial legislation, and the courts have determined that evicting a tenant is a remedy of last resort. In the cases of *Sutherland v. Lamontagne*, [2008] O.J. No. 5763 (Div. Ct.) and *Paderewski Society v. Ficyk*, [1998], the Divisional Court stated,

"To put somebody out of their home must, in my view, call for clear and compelling circumstances that it's no longer possible for the arrangement to continue."
15. I acknowledge eviction is a remedy of last resort. On a balance of probabilities, I am satisfied that the Tenants prejudice outweigh that of the Landlord as there was no evidence before me to suggest that the Landlord would be prejudiced with a two-week delay. The Landlord's prejudice shall further be mitigated with a section 78 clause in the event of a further breach.
16. Accordingly, order LTB-L-109448-25 shall be set aside on the condition that the Tenants pay all of the arrears in accordance with the following order.

It is ordered that:

1. The motion to set aside Order LTB-L-109448-25, issued on January 9, 2026, is granted. The order is cancelled and replaced by the following.
2. The Tenants shall pay to the Landlord \$6,200.13 for arrears of rent up to January 31, 2026.
3. The Tenant shall pay to the Landlord the amount set out in paragraph 2 in accordance with the following schedule:
 - a) \$1,313.28 on February 11, 2026, towards January 2026 rent.
 - b) February 2026 rent on or before February 11, 2026.
 - c) \$4,448.85 on or before February 20, 2026.
4. If the Tenants fail to make any one of the payments in accordance with this order, the outstanding balance of any arrears of rent and costs to be paid by the Tenants to the Landlord pursuant to paragraph 2 of this order shall become immediately due and owing and the Landlord may, without notice to the Tenants, apply to the LTB within 30 days of

the Tenants breach pursuant to section 78 of the Act for an order terminating the tenancy and evicting the Tenants and requiring that the Tenants pay any new arrears, NSF fees and related charges that became owing after January 31, 2026.

February 5, 2026
Date Issued

Mayra Sawicki
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.