



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

Citation: Akelius Canada Ltd v KIVI, 2026 ONLTB 12822

Date: 2026-02-10

File Number: LTB-L-106783-25-SA

In the matter of: 705, 240 ORIOLE PKY
TORONTO ON M5P2H1

Between: Akelius Canada Ltd

Landlord

And

Diana Kivi

Tenant

Akelius Canada Ltd (the 'Landlord') applied for an order to terminate the tenancy and evict Diana Kivi (the 'Tenant') because the Tenant did not meet a condition specified in the order issued on June 12, 2025 with respect to application LTB-L-013527-25.

The Landlord's application was resolved by order LTB-L-106783-25, issued on January 7, 2026. This order was issued without a hearing being held.

The Tenant filed a motion to set aside order LTB-L-106783-25.

This motion was heard by videoconference on February 4, 2026.

The Landlord's representative, David Ciobotaru, and the Tenant attended the hearing.

Determinations:

There was a breach of the previous order

1. The Tenant admitted that she did not pay rent that was due on or before December 1, 2025. Therefore, I was satisfied that the Tenant failed to meet a condition specified in the order issued on June 12, 2025 with respect to application LTB-L-013527-25.

The surrounding circumstances

2. The Tenant testified that she had medical issues and was struggling financially. She admitted that when she entered into the consent order on June 12, 2025, she had been unemployed since 2024. She was able to pay the previously ordered arrears by accessing investments. She admitted that rent has not been paid for December, January or February, but plans to

start the process again to access investment funds. She said those funds are hard to access (i.e. cannot access multiple times) and expects it will take approximately three to four weeks to obtain funds. She stated that she plans to withdraw sufficient funds to pay the arrears and a couple of more months of rent.

3. The Tenant confirmed that she has no income and has been selling personal belongings to cover expenses.
4. The Landlord's representative stated that the Tenant had already been granted an opportunity in June to get her finances in order and while she paid the arrears, she is now back in arrears. He stated that the Landlord has its own financial obligations and expenses to meet and that even if the Tenant is able to access funds to pay arrears, she admitted she has no income. He said there is no certainty that she will be able to continue paying rent.
5. After considering all of the circumstances, I find that it would be unfair to set aside order LTB-L-106783-25. I say this because the Tenant admitted that she has been unemployed since 2024 and had no income. As such, she would have known that she would be unable to pay rent as of December 2025, yet she admitted at the hearing that she had yet to start the process to access her investment savings. While she stated that she had delayed that process because she was trying to source other support, she did not provide any specifics of what those sources were or explain the steps she had taken.

The stay is lifted on February 28, 2026

6. I find it reasonable that the stay of order LTB-L-106783-25 is lifted on February 28, 2026. This provides a little extra time for the Tenant to access her investment funds and pay the arrears while limiting prejudice to the Landlord for ongoing rent which the Tenant has no income to pay. If the Tenant is able to pay the arrears, the Landlord may consider not enforcing the order.

It is ordered that:

1. The motion to set aside Order LTB-L-106783-25, issued on January 7, 2026, is denied.
2. The stay of order LTB-L-106783-25 is lifted on February 28, 2026.
3. Order LTB-L-106783-25 is unchanged.

February 10, 2026
Date Issued

Karen Gonçalves
Member, Landlord and Tenant Board

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