



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

Citation: Drake Property Management v Cooke, 2026 ONLTB 15425

Date: 2026-02-17

File Number: LTB-L-001111-26-SA

In the matter of: 308, 38 Dixington Cres
Etobicoke ON M9P2K7

Between:	Drake Property Management	Landlord
	and	
	Justin Cooke Tenneasha Jenkins	Tenants

Drake Property Management (the 'Landlord') applied for an order to terminate the tenancy and evict Justin Cooke and Tenneasha Jenkins (the 'Tenants').

The Landlord's application was resolved by order LTB-L-001111-26, issued on December 18, 2025. This order was issued without a hearing being held.

The Tenants filed a motion to set aside order LTB-L-001111-26.

The motion was heard by videoconference on February 11, 2026.

The Landlord's Legal Representative, Mark Ciobotaru, and the Tenant, Tenneasha Jenkins ('TJ'), on behalf of both Tenants, attended the hearing. TJ spoke to Tenant Duty Counsel prior to the hearing.

Determinations:

1. The previous order provided that the Landlord could apply to the Board under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') without notice to the Tenants to terminate the tenancy and evict the Tenants if the Tenants did not meet certain conditions specified in the order.
2. Pursuant to section 78(11) of the Act, the issues are as follows:
 - Did the Tenants breach the mediated agreement? If the answer to that question is "NO"; then the motion must be granted and the eviction order set aside;
 - If the Tenants did breach the mediated agreement, the issue becomes whether or not the Board is satisfied, having regard to all the circumstances, that it would not

be unfair to set aside the eviction order. If the Board determines that it would not be unfair to set aside the eviction order, the motion must be granted, and the eviction order must be set aside. Pursuant to s.78(12), the Board may then amend the previous mediated agreement if it is deemed appropriate to do so;

- If the Board is not satisfied that it would not be unfair to set aside the eviction order, then the Board must decide whether or not to delay lifting the stay of the eviction order.

Breach

3. There is no dispute that the Tenants did not pay the lawful rent for January 2026 on or before January 1, 2026.

Set Aside

4. Pursuant to section 78(11)(b) of the Act, the Board may make an order setting aside the ex parte order issued if the Board is satisfied, having regard to all the circumstances, that it would not be unfair to set aside the order.
5. TJ testified that she made the initial repayment arrangement with the Landlord knowing that she could make the payments on time and in full but when the first payment came due, she was still catching up. She testified that the situation was unfortunate, and the Landlord would not allow her an extension on that payment. She testified that the Tenants have been living in substandard living conditions due to pest issues and alleges that the kitchen is infested with mice and cockroaches.
6. TJ testified that she has not made any payments since because she has been withholding the money as she did not know if she would be evicted. However, she conceded in cross-examination that she does not have all of the money anymore.
7. Considering all of the circumstances, I find that it would be unfair to set aside the previous order. The Tenant has breached the order on multiple occasions, has made no payments to the Landlord at all in accordance with that agreement, and the arrears as of the hearing date are now higher than they were at the time of the initial payment agreement. When TJ was questioned on her finances to determine whether she has the financial ability to afford the ongoing rent and continue the tenancy, her testimony was extremely vague and she could offer no approximate amounts of most expenses or otherwise demonstrate the Tenants' ability to pay the arrears and the ongoing rent.
8. I find it would be unfair and prejudicial to the Landlord to continue with the tenancy when I am not satisfied that the Tenants will or otherwise have the ability to pay the lawful rent on time or comply with a repayment plan order issued by the Board. The tenancy, in my view, is not viable.
9. TJ requests that the lifting of the stay be delayed two months as it will be difficult to find new living accommodations, particularly this time of year. While the Landlord opposed delaying lifting the stay for two months, they were not opposed to a delay of 30 days.

10. Given that the Tenants have lived in the rental unit for 10 years and have 3 children living with them, some delay with respect to lifting of the stay is reasonable. However, delaying the eviction two months is unreasonable and unduly prejudicial to the Landlord given that the arrears are likely to continue to accrue until the Tenants vacate. Therefore, the stay will be lifted on March 18, 2026.

It is ordered that:

1. The motion to set aside Order LTB-L-001111-26, issued on December 18, 2025, is denied.
2. The stay of Order LTB-L-001111-26 is lifted on March 18, 2026.

February 17, 2026
Date Issued

Candace Aboussafy
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.