



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

Citation: Kerr v Roswell, 2026 ONLTB 18247

Date: 2026-03-02

File Number: LTB-L-102412-25-SA

In the matter of: 658 COUNTY RD#5
PICTON ON K0K2T0

Between: Ronald Kerr
Susan Kerr Landlords

And

Nate Roswell
Jade Grover Tenants

Ronald Kerr and Susan Kerr (the 'Landlords') applied for an order to terminate the tenancy and evict Nate Roswell and Jade Grover (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 order issued by the LTB on November 10, 2025 with respect to application LTB-L-073871-25-SA.

The Landlords' application was resolved by order LTB-L-102412-25, issued on December 9, 2025. This order was issued without a hearing being held.

The Tenants filed a motion to set aside order LTB-L-102412-25.

This motion was heard by videoconference on January 15, 2026.

The Landlords and the Tenants attended the hearing.

Determinations:

There was a breach of the previous order

1. The Tenants failed to meet a condition specified in the order issued by the LTB on November 10, 2025, with respect to application LTB-L-073871-25-SA.
2. Specifically, the Tenant failed to pay rent for the month of November 2025 on or before November 21, 2025, and further, the Tenant failed to pay the lawful rent due on December 1, 2025. The Tenant agreed that the payments were not made as ordered.

The surrounding circumstances

3. The Tenants' evidence is that he was employed doing "side jobs" with children and seniors until his children contracted a common childhood illness which precluded the Tenant from continuing to work. The Tenant's inability to work during this time resulted in the breach of the payment conditions ordered in LTB-L-073871-25-SA.
4. The order in LTB-L-073871-25-SA was issued pursuant to a prior set aside motion filed by the Tenants that was heard on October 23, 2025. The order in LTB-L-073871-25-SA requires timely payment of the monthly rent by the Tenant, and payments of \$1,000.00 per month towards rent arrears.
5. The Tenant testified that he is now working daily as a plow driver, and he typically works 12 hours per day. The Tenant gave evidence that he is also employed at a gas station to supplement his income.
6. The Tenant did not submit any evidence to corroborate his testimony in relation to his employment issues, current income, nor when he was able to begin working again.
7. The Tenant requested that the previous payment plan be reinstated believing he now has the ability to continue to make the payments pursuant to the order in LTB-L-073871-25-SA.
8. The Tenant also testified that he paid \$5,300.00 to the Landlord since the previous hearing to reduce the arrears. The Landlord disputed that the Tenant paid \$5,300.00 and recounted the following payments that had been received:
 - November 2025- \$1,000.00
 - December 2025- \$ 900.00
 - December 2025- \$ 750.00
 - January 2026- \$2,000.00
\$4,650.00
9. The Tenant did not submit proof of any additional payments that were unaccounted for by the Landlord, and I accept the Landlord's evidence in relation to the quantum of payments made by the Tenant.
10. The Tenants have not paid the monthly rent, nor the monthly payments towards arrears as ordered. This is the second motion to set aside filed by the Tenants and despite making payments since the last hearing the arrears have continued to grow.
11. I am not satisfied that the Tenants can afford the monthly payments towards the arrears, nor the monthly rent. After considering all of the circumstances, I find that it would be unfair to set aside order LTB-L-102412-25.

The stay is lifted on March 15, 2026

12. The stay of order LTB-L-102412-25 is lifted on March 15, 2026.

13. The Tenants requested that if the motion is denied the stay of the order be lifted no earlier than February 28, 2026, which would provide the Tenant with over a month from the hearing date to vacate. The Tenants reside in the rental unit with one child “full time”, and two other children who are part of the household on alternate weekends.
14. The Landlords did not oppose the Tenants’ request however, based on the date this order will issue the stay will be lifted on March 15, 2026. To delay longer would be unduly prejudicial to the Landlords in the absence of payment for rent or arrears.

It is ordered that:

1. The motion to set aside Order LTB-L-102412-25, issued on December 9, 2025, is denied.
2. The stay of order LTB-L-102412-25 is lifted on March 15, 2026.
3. Order LTB-L-102412-25 is unchanged.

March 2, 2026
Date Issued

Kyle McGraw
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.