



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

File Number: LTB-L-004634-26-SA

In the matter of: 1704, 5 SOUDAN AVE
TORONTO ON M4S0B1

Between: Paula Litman Landlord
Homease Property Management Inc.

And

Samuel Crowder Tenant

Paula Litman and Homease Property Management Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Samuel Crowder (the 'Tenant') and for an order to have the Tenant pay compensation for damage they owe because the Tenant did not meet a condition specified in the order issued by the LTB on January 15, 2026 with respect to application LTB-L-049727-25.

The Landlord's application was resolved by order LTB-L-004634-26, issued on January 26, 2026. This order was issued without a hearing being held.

The Tenant filed a motion to set aside order LTB-L-004634-26.

This motion was heard by videoconference on March 9, 2026.

The Landlord's Legal Representative, M. Lippa, the Landlord's Agent, N. Luna, the Tenant's Legal Representative, B. Bilimoria, and the Tenant attended the hearing.

Determinations:

Preliminary Issue

1. At the outset of the motion hearing, the Tenant's Legal Representative requested that the motion be granted and the L4 application dismissed as the criteria pursuant to section 78 of the *Residential Tenancies Act, 2006* (the 'Act') were not met.
2. In the L4 application the Landlord alleged that the Tenant breached paragraph 3 of the prior order, LTB-L-049727-25, issued January 15, 2026 by allegedly engaging in harassing, aggressive and abusive behaviour towards the property management on January 8, 2026.

3. The Tenant's Legal Representative submitted that the Landlord was not permitted to file pursuant to section 78 of the Act on an alleged first breach of paragraph 3 of the prior order as per paragraphs 5 and 6 of that same order which reads:

5. If the Tenant breaches paragraph 3 of this order, the Landlord will notify and provide particulars of the alleged breach to the Tenant's case manager at Community Living York South, Yvonne Phung by email: Yphung@communitylivingyorksouth.ca or alternate case manager (if assigned) of the Tenant's alleged breach paragraph 3 of this Order.

6. If the Landlord provides the notification as noted in para 5, and the Tenant breaches the condition in paragraph 3 again at any time for the remainder of the 15-month duration of this order, the Landlord may apply under section 78 of the Residential Tenancies Act, 2006 (the 'Act') for an order terminating the tenancy and evicting the Tenant. The Landlord must make the application within 30 days of a breach of a condition. This application is made to the LTB without notice to the Tenant.

Emphasis Added

4. The Tenant's Legal Representative submitted that the inclusion of paragraph 5 and the requirement to notify the Tenant's case manager was to address the Landlord's duty to accommodate the Tenant under the *Human Rights Code, 1990* (the 'Code'). He further submitted that the addition of the word 'again' in paragraph 6 is implicit that another breach must occur before the Landlord can apply to terminate the tenancy pursuant to section 78 of the Act.
5. The Landlord's Legal Representative submitted that the intention of the order, issued on consent, was to notify the Tenant's case manager of the alleged breach, which they did, but to also be able to file to terminate the tenancy pursuant to section 78 of the Act. She also submitted that the LTB has granted the L4 application by issuing the order, LTB-L-004634-26, on January 26, 2026. She further submitted that it would not make sense for the Landlord to agree that they could only apply if there was a subsequent breach by the Tenant.
6. Subsection 78(1) of the Act provides that:

A landlord may, without notice to the tenant, apply to the Board for an order terminating a tenancy or evicting the tenant if the following criteria are satisfied:

1. The landlord previously applied to the Board for an order terminating the tenancy or evicting the tenant.
2. A settlement agreed to under section 194 or order made with respect to the previous application,

i. imposed conditions on the tenant that, if not met by the tenant, would give rise to the same grounds for terminating the tenancy as were claimed in the previous application, and

ii. provided that the landlord could apply under this section if the tenant did not meet one or more of the conditions described in subparagraph i.

3. The tenant has not met one or more of the conditions described in subparagraph 2 i.

7. In accordance with subsection 78(1) 2 ii of the Act, a landlord may only apply under section 78 of the Act if the settlement (order) provided that they could do so. In this case, in reading paragraph 5 of the prior order, LTB-L-049727-25, issued January 15, 2026, it is clear that the addition of the word 'again' contemplated a second or subsequent breach of paragraph 3 before the Landlord could apply under section 78 of the Act.
8. There are other terms and/or conditions in the prior order, LTB-L-049727-25, issued January 15, 2026, which provided that the Landlord could apply under section 78 of the Act for an alleged breach of those terms/conditions which did not stipulate the word 'again.' Therefore, I was satisfied that the addition of the word 'again' specifically to a breach of paragraph 3 of the prior order was done intentionally and most likely to address the Landlord's duty under the Code.
9. Consequently, since the Landlord was not permitted to apply pursuant to section 78 of the Act for an alleged single breach of the terms/conditions set out in paragraph 3 of the prior order, it would not be unfair to set aside the order.

It is ordered that:

1. The motion to set aside Order LTB-L-004634-26, issued on January 26, 2026, is granted.
2. Order LTB-L-004634-26, issued on January 26, 2026, is set aside and cannot be enforced.
3. The previous order issued on January 15, 2026 with respect to LTB-L-049727-25 remains in full force and effect.

March 17, 2026
Date Issued

Lisa Del Vecchio
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.