



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

Citation: FANTHAM v PAGE CHOLETTE, 2026 ONLTB 21556

Date: 2026-03-12

File Number: LTB-L-001217-26-SA

In the matter of: A, 322 BELMONT
CORNWALL ON K6H4Z6

Between: TERRY FANTHAM Landlord

And

ASHTON PAGE CHOLETTE Tenant

TERRY FANTHAM (the 'Landlord') applied for an order to terminate the tenancy and evict ASHTON PAGE CHOLETTE (the 'Tenant') and for an order to have the Tenant pay the rent they owe because the Tenant did not meet a condition specified in the order issued by the LTB on May 1, 2025 with respect to application LTB-L-0036018-25.

The Landlord's application was resolved by order LTB-L-001217-26, issued on January 12, 2026. This order was issued without a hearing being held.

The Tenant filed a motion to set aside order LTB-L-001217-26.

This motion was heard by videoconference on February 10, 2026.

The Landlord's legal representative, James Moak, the Landlord's agent, Cheryl Cadieux, the Tenant and the Tenant's legal representative, Amber Miller, attended the hearing.

Determinations:

1. The Landlord filed an L1 application for non-payment of rent which was resolved by consent order LTB-L-006018-25 issued May 1, 2025. The 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 Tenant to terminate the tenancy and evict the Tenant if they failed to make the arrears and rental payments specified in the order.

The Breach of the Order

2. There is no dispute that the Tenant breached the order by failing to pay \$200.00 towards the arrears by December 15, 2025, and by failing to pay the lawful rent by January 1, 2026.

The Tenant's Motion

3. This motion is brought pursuant to subsection 78(11) of the Act. As I am satisfied that the Tenant breached the order issued on May 1, 2025, the only issue before me is whether I am "satisfied, having regard to all the circumstances, that it would not be unfair to set aside the order".
4. The Tenant testified that his ODSP cheque was held and this is the reason why he fell behind on his January 2026 rent payment. The Tenant attended at ODSP but his worker was vacation and the agent filling in had very little information to assist him. The Tenant says that the situation was eventually rectified but could not provide the reason why his cheque was held. The Tenant stated he now has the money set aside to pay both January and February rent in full. The Tenant further stated that the homeless prevention program has agreed to provide \$200.00 towards the arrears but provided no explanation as to why the arrears payment due December 15, 2025, was missed.
5. The Tenant's monthly income from ODSP is \$1,368.00 and his rent is \$973.75. The Tenant claimed his only monthly expense other than rent is his cell phone of \$67.00 and that his mother helps him with other costs such as utilities and food. The Tenant has 4 children and is presently trying to obtain visitation with them. The Tenant stated that he has no information on any child support payments that may be required at this time.
6. The Tenant testified he has nowhere to go if he is evicted. The Tenant does not get along with his mother and states he has no friends he could stay with. Additionally, the Tenant believes his chances of obtaining visitation with his children would be negatively impacted if he does not have stable housing.
7. The arrears owing to the Landlord are \$5,236.25 to February 28, 2026. This is a \$1,300.00 increase from the amount of arrears stated in order LTB-L-0036018-25 issued on May 1, 2025.
8. The Landlord's legal representative submitted that the Tenant's increasing arrears and breach of the payment plan severely prejudices the small Landlord who is grappling with significantly increased operating costs.
9. I have considered all of the circumstances, and I find that it would be unfair to set aside the eviction order. The Tenant did not provide supporting evidence that he has the funds set aside to pay rent for January and February 2026. The Tenant also did not call his mother to testify or produce a letter from her confirming that she pays most of the Tenant's monthly expenses. Given the Tenant's comments about the relationship with his mother, this evidence would have been helpful to ascertain a true picture of the Tenant's actual expenses per month. Given the financial information provided by the Tenant at the hearing, I am not satisfied this is a viable tenancy. The Tenant only has \$327.25

remaining after paying his rent and cell phone bill but I am not satisfied the Tenant has provided a true account of all his expenses.

10. I am sympathetic to the Tenant's efforts to obtain visitation with his children; however, the Tenant did not state that he is seeking part-time custody and visitation can take place at locations other than the Tenant's primary residence. I am also mindful that the Tenant had no information on what child support payments may be required in the future and if child support is ordered this would further limit his available income to pay rent.
11. I find the Tenant's requested payment plan of \$100.00 per month is not only not sustainable but would be too onerous on both the Landlord and the Tenant as it would take the Tenant over 4 years to pay off the arrears.

The Lifting of the Stay

11. As I am satisfied that the Tenant's motion should be denied, the next issue before me is when to lift the stay of the eviction order. Given the Tenant's financial position and recognizing the difficulty he may have in finding alternate accommodations, I will provide a delay to March 31, 2026, in order to give the Tenant every opportunity to find alternate accommodations. An order will issue accordingly.

It is ordered that:

1. The motion to set aside Order LTB-L-001217-26, issued on January 12, 2026, is denied.
2. The stay of order LTB-L-001217-26 is lifted on March 31, 2026.

March 12, 2026

Date Issued

Melissa Anjema

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.