



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

File Number: LTB-L-001067-26-SA

In the matter of: 203, 1371 SIMCOE ST N
OSHAWA ON L1G4X5

Between: Lanmark Management Ltd Landlord

And

Matthew Zevenhousen Tenant
Anthony Turner

Lanmark Management Ltd (the 'Landlord') applied for an order to terminate the tenancy and evict Matthew Zevenhousen and Anthony Turner (the 'Tenant') because the Tenant did not meet a condition specified in the order issued by the LTB on September 15, 2025 with respect to application LTB-L-062941-25.

The Landlord's application was resolved by order LTB-L-001067-26, 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-001067-26.

This motion was heard by videoconference on February 2, 2026.

The Landlord's agent Cole Foley, the Landlord's witnesses: Robert Hainer, Miranda Wimbush, Michelle Labelle, Amanda Lawton and Briane Tyrrell, the Tenant Anthony Turner, the Tenant's agent Robyn Turner and the Tenant's witness Marlene Warren attended the hearing.

Determinations:

1. The Tenant's motion to set aside the eviction order was brought pursuant to subsection 78(11) of the Residential Tenancies Act, 2006 (the "Act")
2. The Board must first determine whether or not the Tenant breached order LTB-L-062941-25 issued on September 15, 2025 (the "Section 78 Order").
3. The Section 78 Order provided that the Landlord could apply to the Board under section 78 of the Act without notice to the Tenant to terminate the tenancy and evict the Tenant if the Tenant did not meet certain conditions specified in the order. If the Board finds that the Tenant did breach the Section 78 Order, then the Board must decide whether or not "in all

the circumstances” it would be “unfair to set aside” the eviction order. If the Board determines that it would not be unfair to set aside the eviction order then the Board is supposed to grant the motion and set aside the order. If the Board determines that it would be unfair to set aside the eviction order then the motion must be denied.

4. The Tenant denied breaching the Section 78 Order. In particular, the Tenant denied breaching the following provision on December 28, 2025, January 3, 2026 and January 4, 2026:

The Tenant shall refrain from making excessive noise in the unit, which includes but is not limited to loud music, yelling or fighting or any other kind of excessive noise that is disruptive to other tenants from 10:00pm to 7:00am daily for remainder of the tenancy

5. The Landlord produced the building superintendent and several residents of the building as witnesses, namely Robert Hainer (“RH”), Miranda Wimbush (“MW”), Michelle Labelle (“ML”), Amanda Lawton (“AL”) and Briane Tyrrell (“BT”).
6. While all residents spoke generally of the excessive base/music emanating from the rental unit, the most relevant testimony came from the Tenant MW and AL.
7. The Tenant MW spoke specifically about the excessive sounds heard on January 3, 2026 and January 4, 2026 - dates forming the alleged breach in the Landlord’s L4 Application. MW testified she lives below the Tenant’s unit and advised she heard blaring music coming from the Tenant’s rental unit from 8:00pm to “*past 10:00pm*”. According to MW, she sent recordings to the Landlord as she did not feel comfortable approaching the Tenant directly.
8. The Tenant BT testified that on January 4, 2026 at 11pm, she received a telephone call from her sister, who lives immediately adjacent to the Tenant. BT went to her sister’s unit and testified she heard excessively loud base/music, as well as the Tenant Anthony Turner swearing at them through the wall. According to BT, the Tenant’s conduct from January 4 was disturbing and unfortunately, a common occurrence which has not ceased.
9. The Tenant Anthony Turner (AT) denied causing excessive noises, stating since issuance of the Section 78 Order, he no longer uses his larger/louder speakers. AT testified he does not play music past 9:30pm and added that neither the tenants, nor the superintendent spoke to him on the dates in question.
10. While it is unusual that the Landlord did not document the noted disturbances with the Tenant, I found the testimonies of MW and BT regarding the excessive noise emanating from the rental unit after 10pm on January 3, 2026 and January 4, 2026 to be believable, given the noted detail provided of the nights in question. It is clear that they found the noise to be disturbing and consequently, I find the Tenant breached the Section 78 Order.
11. The next issue is whether or not “in all the circumstances” it would be “unfair to set aside” the eviction order.

12. The Tenant lives at the rental unit with his spouse and his children. The Tenant noted he has been looking for alternative accommodations, stating his children need more space and he was not happy at the current location.
13. While the Tenant's agent RT testified the Tenant has health issues, no medical documentation or particulars were provided in support. Moreover, there was no evidence advanced that the Tenant's purported health issues caused and/or resulted in the Tenant breaching the Section 78 Order.
14. The Landlord's witnesses testified that in the past, the Tenant can become aggressive when confronted about the loud sounds coming from the rental unit. The Landlord's witness AL testified that as recently as 11:30pm on January 30, 2025, the Tenant's loud disturbances continued
15. Based upon the evidence presented, including the fact I am not satisfied the loud disturbances will cease in the event another conditional order is granted, I find it would be unfair to set aside the eviction order. Notwithstanding the foregoing, in light of the Tenant's family and noted challenges in securing alternative accommodations, find it would not be unfair to delay the lifting of the stay as requested by the Tenant.

It is ordered that:

1. The motion to set aside Order LTB-L-001067-26, issued on January 12, 2026, is denied.
2. The stay of order LTB-L-001067-26 is lifted on May 31, 2026.

March 19, 2026
Date Issued

Peter Nicholson
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.