



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

Citation: Co-operative Homes of Prosperity & Equality v Garner, 2026 ONLTB 22988

Date: 2026-03-19

File Number: LTB-C-088738-25-SA

In the matter of: 304, 80 Barry Street
Sudbury ON P3B 4J6

Between: Co-operative Homes of Prosperity & Equality Co-op

And

Susan Garner
Co-op Member

Co-operative Homes of Prosperity & Equality (the 'Co-op') applied for an order to terminate the occupancy and evict Susan Garner (the 'Co-op Member') because the Co-op Member did not meet a condition specified in the order with respect to application LTB-C-084846-24-SA.

The Co-op's application was resolved by order LTB-C-088738-25, issued on October 24, 2025. This order was issued without a hearing being held.

The Co-op Member filed a motion to set aside order LTB-C-088738-25.

This motion was heard by videoconference on December 3, 2025 and January 16, 2026.

The Co-op's agent, K. Duchesne, the Co-op's legal representative, G. Marcuccio, the Co-op Member, and the Co-op Member's legal representative, J. Pugliese, attended the December 3, 2025 hearing.

The Co-op's agents, J. Horrigan, and S. Francis, the Co-op's legal representative, G. Marcuccio, the Co-op Member, and the Co-op Member's legal representative, J. Pugliese, attended the January 16, 2026 hearing.

Determinations:

1. The Co-op submits that the Co-op Member refused accommodation support by failing to cooperate with Nicole Wilson (NW) from CMHA and by failing to maintain the unit in an ordinary state of cleanliness, to a level 3 on the clutter scale provided by the Co-op, and in treatable condition for bed bugs and roaches by September 30, 2025.
2. The Co-op Member denies having breached the order.

Refusal of Accommodations

3. Keara Duchesne (KD), the Co-op's property manager, testified that she was advised by NW, a support worker from CMHA, that NW had an issue with the Co-op Member. KD testified that the Co-op Member was refusing the services offered by CMHA, which resulted in NW withdrawing services from the Co-op Member. KD further testified that she was not provided with details of the incident between the Co-op Member and NW and was therefore unable to provide additional details of any potential incident between the parties.
4. KD submits that the Co-op Member's refusal to accept the services offered by CMHA is a direct breach of the order requiring the Co-op Member to accept the accommodation attempts provided by the Co-op.
5. The Co-op Member testified that on September 30, 2025, she had a disagreement with NW. The Co-op Member testified that she was feeling down because her father's health was deteriorating and that NW told her to stop thinking of her family and to focus on cleaning her unit so that she would not lose her occupancy. The Co-op Member testified that this upset her, and acknowledged that she told NW to get out of her unit.
6. The Co-op Member testified that telling NW to get out of her unit was inconsequential because NW was not assisting her with decluttering the unit and was instead moving items around.
7. The Co-op Member testified that she contacted CMHA to obtain another support worker. However, because of the disagreement with NW, CMHA refused to provide additional support.

Failure to Maintain the Unit in Ordinary State of Cleanliness

8. There is no dispute that the Co-op provided the Co-op Member and NW with a copy of the clutter scale on or before August 5, 2025.
9. KD testified that on October 1, 2025, she conducted an inspection of the Co-op Member's rental unit and observed the following deficiencies:
 - a) Access to the bathroom was blocked;
 - b) Items of the floor of the rental unit were blocking the entrance hallway;
 - c) Limited access to move about the rental unit within the bedroom and living room area;
 - d) Stacked items throughout the unit;
 - e) No seating area in the rental unit; and
 - f) Items scattered throughout the kitchen
10. KD testified that the condition of the unit posed a safety concern because it was difficult to access the windows and the stacked items had the potential to fall over. KD further testified that the condition of the unit made it difficult for the Co-op to conduct pest control treatments. KD stated that during the most recent pest control treatment on September 19, 2025, pest control technicians were only able to spray a small section of the kitchen because the remainder of the unit was not treatable. KD testified that she spoke directly

with the pest control technicians, who advised her that the unit was not treatable. Pest control treatment reports were not submitted into evidence.

11. KD testified that although is not a clutter scale expert, when comparing the Co-op Member's unit to the clutter scale, she believes the bedroom is near a level 3, the kitchen is a level 4, and the living room is within a level 5 or 6 of the clutter scale. KD testified that she has not attempted to access the unit after October 1, 2025, because the Co-op Member requested that staff not enter the unit and because the Co-op Member has become hostile. KD testified that this has been an on-going issue since 2018 and requests termination of the occupancy.
12. The Co-op Member testified that she understands she is required to maintain the unit in an ordinary state of cleanliness. The Co-Op Member testified that she is working on establishing a routine to dust, sweep and wash dishes.
13. The Co-op Member does not dispute the condition of the unit on October 1, 2025. However, she takes the position that had NW not just moved items around in the unit, the unit would be in "tip top shape". The Co-op Member testified that since NW left the unit, the condition of the unit has been improving. She testified that there are still a few items on the couch but that overall the unit is better. For example, she can see the flooring and her computer and has removed items from her couch as she has been giving some of her items away. Photographs of the current condition of the unit were not submitted into evidence.
14. The Co-op Member acknowledges that pest control has attended the unit but was unable to properly treat the unit because she failed to remove items from the cupboards. The Co-op Member acknowledges that this has been an ongoing issue. In cross-examination, the Co-op Member testified that she does not require accommodations, has not requested accommodations from the Co-op, and does not intend to seek assistance to maintain the unit.
15. The Co-op's representative argues that KD is not a clutter scale expert. The representative submits that when the clutter scale was included as part of the conditional order, it proposed a specific designation for how the Co-op Member was to maintain her unit. The representative further argues that the clutter scale is subjective and that KD's testimony is speculative. The representative also submits that the Co-op is simply looking for reasons to evict the Co-op Member, as there have been no further pest control treatments after September 19, 2025, and no further inspections after October 1, 2025.
16. The Co-op Member's representative submits that because KW is not an expert in the clutter scale, the Co-op has failed to meet its burden of proof to establish that the Co-op Member has breached the order. In the alternative, if a breach is found, the representative submits that the Co-op Member has continued to maintain the unit in a state of ordinary cleanliness after October 1, 2025.
17. I am not persuaded by the Co-op Member representative's position. Regardless of whether KD is a clutter scale expert, the order required the Co-op Member to maintain the unit in a state of ordinary cleanliness and in a condition that was treatable for bedbugs and cockroaches.

18. The photographs provided by the Co-op substantiate the Co-op's allegation that the unit is not in an ordinary state of cleanliness. The Co-op Member did not dispute the condition of the unit as of October 1, 2025, and acknowledged that pest control has not been able to treat her unit because she failed to remove items from the cupboards. Although the Co-op Member testified that her unit is better, she did not submit documentary evidence, such as photographs, to corroborate her assertion.
19. While I acknowledge that the Co-op has not conducted a further pest control treatment or inspection, KD testified that she stopped entering the Co-op Member's unit because pest control technicians advised that the unit was not treatable and because the Co-op Member became hostile and requested that no further access be made to the unit. The evidence was not challenged by the Co-op Member. In fact, the Co-op Member agreed that pest control treatment was not possible because she failed to remove items from her cupboards. As a result, I accept KD's testimony that the Co-op Member's unit was not treatable and that the Co-op Member requested that no further access be granted. Accordingly, I find it reasonable that the Co-op did not pursue additional pest control treatments or further access to the unit.
20. Based on the evidence before me, on a balance of probabilities, I am satisfied that the Co-op Member failed to bring her unit to an ordinary state of cleanliness in a condition that was treatable for bedbugs and cockroaches by September 30, 2025. As a result, I find that the Co-op Member has breached the terms of the conditional order.
21. With respect to the allegation that the Co-op Member has refused accommodations provided by the Co-op, I note that no actual accommodation has been provided to the Co-op Member. This appears to be because the Co-op Member has not requested accommodations as required by the conditional order and further testified that she does not require and does not intent to seek any accommodation supports.
22. As I am satisfied that the Co-op Member has breached the previous order, the next issue before me is whether it would be unfair in all the circumstances to grant the Co-op Member's motion to set aside the eviction order.
23. There is no dispute that this has been an ongoing issue since 2018. This is the second motion filed by the Co-op Member in which she asserts that she has maintained the unit in an ordinary state cleanliness. While I accept that the Co-op Member is attempting to maintain the unit in an ordinary state of cleanliness, the evidence before me demonstrates that the Co-op Member does not currently have the capacity to maintain the unit in that condition.
24. The Co-op Member testified that she attempts to maintain a routine to dust, sweep and wash dishes and maintains that she does not require accommodations or support to maintain her unit. However, If the Co-op Member is unable to accept that she requires assistance to maintain the unit, it would be unreasonable to issue another conditional order. It is unfair to the parties to repeatedly be given "last chances", and to fail to comply with those conditions. Accordingly, I find that it would not be unfair in the circumstances to deny the motion to set aside the eviction order.
25. The Co-op's representative requests a six-month delay in lifting the stay of eviction. The Co-op Member has occupied the unit for 13 years and pays a subsidized housing charge

of \$161.00 a month. The Co-op Member has a very small support system and, if evicted sooner, may become a disabled and homeless individual. The Co-op Member testified that although she is generally in good health, she has a learning disability that affects her ability to learn things quickly.

26. The Co-op opposes a six-month delay and instead requests a 60-day delay in lifting the stay.

27. After considering the submissions before me, I find that delaying the enforcement of eviction until May 31, 2026 is reasonable in the circumstances, particularly given the length of the Co-op Member's occupancy. The delayed eviction will provide the Co-op Member with sufficient time to locate alternative accommodations. The delay balances the interest of both parties.

28. All of my reasons in support of this order are contained in the above paragraphs no further reasons will be issued.

29. The stay of order LTB-C-088738-25 is lifted on May 31, 2026.

It is ordered that:

1. The motion to set aside Order LTB-C-088738-25, issued on October 24, 2025, is denied.
2. The stay of order LTB-C-088738-25 is lifted on May 31, 2026.
3. Order LTB-C-088738-25 is unchanged.

March 19, 2026
Date Issued

Mayra Sawicki
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.