



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

File Number: LTB-L-084278-25-SA

In the matter of: Main Floor, 635 ANNETTE ST
TORONTO ON M6S2C5

Between: 635 Annette Street Inc. Landlord

And

Robert Jerome
Yvonne Spencer Tenants

635 Annette Street Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Robert Jerome and Yvonne Spencer (the 'Tenants') because the Tenants did not meet a condition specified in the order issued by the LTB on July 14, 2025 with respect to application LTB-L-014182-25.

The Landlord's application was resolved by order LTB-L-084278-25, issued on October 21, 2025. This order was issued without a hearing being held.

The Tenants filed a motion to set aside order LTB-L-084278-25.

This motion was heard by videoconference on December 2, 2025 and February 19, 2026.

The Landlord's Legal Representative, Denise Ranger, the Landlord's Agent, Mark Oleniuk, the Tenants, Robert Jerome ("RJ") and Yvonne Spencer ("YS"), and the Tenants' Legal Representative, Olivia Dooley, attended the hearing on December 2, 2025. Chris Berg ("CB") attended the hearing as a witness for the Landlord.

The Landlord's Legal Representative, Denise Ranger, the Landlord's Agent, Mark Oleniuk, the Tenant, Yvonne Spencer, and the Tenants' Legal Representative, Olivia Dooley, attended the hearing on February 19, 2026.

Determinations:

1. Order LTB-L-014182-25 provides that the Landlord can apply to the LTB under section 78 of the *Residential Tenancies Act*, 2006 (the 'Act') without notice to the Tenants to terminate the tenancy and evict the Tenants if the Tenants do not meet the following condition: for a period of 24 months beginning June 25, 2025, the Tenants shall not engage in any action or activity causing excessive noise.

2. CB resides in the unit above the rental unit occupied by the Tenants.
3. CB testified that he heard constant yelling for three hours and contacted the Landlord on September 15, 2025. The yelling consisted of the Tenants yelling at each other.
4. CB testified that he again heard yelling and arguing from the Tenants on September 28, 2025 and September 29, 2025. CB describes the noise as YS yelling at and berating RJ and RJ using profanity.
5. CB testified that he has heard the disturbances regularly for seven years and have contacted RJ directly.
6. CB testified that he has to utilized two white noise machines to drown out the noise from the Tenants and has had to sleep at his parents' house to avoid the noise.
7. YS testified that the rental unit is the same layout as CB's and that she can hear noise from CB's unit also.
8. YS testified that property is about 80 to 100 years old and need insulation for better sound proofing.
9. YS denies that the Tenant generated excessive noise on September 15, 2025, September 28, 2025, and September 29, 2025 and testified that she and RJ do not shout at each other and that RJ is a loud talker.
10. YS testified that she is RJ's caretaker and that he has mobility issues and needs to use a walker.

Analysis

11. Based on the evidence before the Board and on the balance of probabilities, I am satisfied that the Tenants breached the previous order by causing excessive noise in the rental unit on September 15, 2025, September 28, 2025 and September 29, 2025. I find CB's evidence to be credible. YS acknowledged that she would yell over a fan to communicate with RJ at times and that RJ uses a walker which would hit the walls of the rental unit.
12. While the Tenants' Legal Representative requested that the Board consider the messages between RJ and CB at the second hearing, I find it would be inappropriate to do so as neither RJ nor CB was present to speak on the messages. The Tenants' Legal Representative had an opportunity to put the messages to CB in cross-examination at the first hearing but chose not. For the Board to consider communication without context from the sources of the messages, in my view, would be inappropriate and prejudicial to the Landlord.
13. This means I must determine, having regard to all the circumstances, whether it would not be unfair to set aside the eviction order pursuant to section 78(11)(b) of the Act.
14. Having regard to all of the circumstances, I am satisfied that it would not be unfair to set aside order LTB-L-084278-25. There is no dispute that RJ passed away on December 18, 2025 after the first hearing. Given the breaches to the previous order are results of the interaction between the Tenants, I find that a similar breach would be unlikely as RJ is no

longer in the rental unit. There was no evidence before the Board that there was continued and substantial disturbances in the rental unit after September 29, 2025. Since September 29, 2025, CB's recollection of a noise disturbance from the Tenants was an incident that occurred outside the property. I am of the view that YS can comply with the conditional order going forward.

15. In making this determination, I also considered that the Tenants have resided in the rental unit for over ten years and that YS has some health issues. The Act is remedial legislation and the courts have determined that evicting a tenant is a remedy of last resort. In this case, I am satisfied that YS should be given an opportunity to continue the tenancy if she complies with the previous order. Prejudice to the Landlord is alleviated through the Landlord's ability to apply to terminate the tenancy under section 78 of the Act if there is another breach.

It is ordered that:

1. The motion to set aside Order LTB-L-084278-25, issued on October 21, 2025, is granted.
2. Order LTB-L-084278-25, issued on October 21, 2025, is set aside and cannot be enforced.
3. The previous order issued on July 14, 2025 with respect to LTB-L-014182-25 remains in full force and effect.

March 19, 2026
Date Issued

Vicky Liu
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.