



**Order under Section 21.2 of the
Statutory Powers Procedure Act and the
Residential Tenancies Act, 2006**

Citation: Dunsmure Developments Ltd. v Livingstone, 2026 ONLTB 25337

Date: 2026-03-25

File Number: LTB-L-094756-25-SA-RV

In the matter of: 44, 276 Dunsmure Rd
Hamilton ON L8M0A2

Between: Dunsmure Developments Ltd. Landlord

and

David Livingstone
Harry Kemppl
Cynthia Jardim Tenants

Review Order

Dunsmure Developments Ltd. (the 'Landlord') applied for an order to terminate the tenancy and evict David Livingstone, Harry Kemppl and Cynthia Jardim (the 'Tenants') and for an order to have the Tenants pay the rent they owe because the Tenants failed to meet a condition specified in the order issued by the LTB on November 10, 2025 with respect to application LTB-L-069782-25.

This application was resolved by order LTB-L-094756-25, issued on November 17, 2025 (the 'L4 Order'). This order was issued without a hearing being held.

On November 27, 2025, the Tenants filed a motion to set aside the L4 Order. The Tenants' motion to set aside was resolved by order LTB-L-094756-25-SA, issued on February 4, 2026 (the 'Set Aside Order').

On February 6, 2026, the Landlord requested a review of the Set Aside Order.

The review request was heard by videoconference on March 23, 2026.

Only the Landlords' Agents, Wing Chu and Savan Chandaria, attended the hearing. I was satisfied that the Tenants had received the Notice of Hearing and there was no request to adjourn before me. Based on this, I proceeded to hear the review at 1:16pm.

Determinations:

Review Request

1. By way of backgrounds, the Set Aside Order granted the Tenants' motion to set aside the L4 Order and ordered that the tenancy shall continue subject to conditions, namely a payment plan for the outstanding rent arrears.
2. The Landlord submits that there is a serious error in the order because the order does not require the Tenants to pay the rent for the months of January 2026 and February 2026 as part of the conditions set out in the order.
3. I agree with the Landlord. The Set Aside Order contains a serious error because it effectively leaves the Landlord without recourse for unpaid rent for January and February 2026, save for starting brand new eviction proceedings with a new N4 notice of termination that addresses only those two months owing. Interestingly, the order does permit the Landlord to apply for an order requiring the Tenants to pay the rent owing for January 2026 and February 2026 in the event of a breach of the payment plan. In my view, it is a serious error to not consider or require that the Tenants pay the new rent that became due after the hearing date but prior to the issuance of the order.
4. Considering several required payment dates set out in the order had already passed at the time of the hearing of the Landlord's review request, I found that it would not be appropriate to vary the previous order to correct the error and the Tenants' motion to set aside must be re-heard in its entirety. As such, a new hearing was held to consider the Tenants' motion to set aside the L4 Order.

Motion to Set Aside

5. Since the Tenants did not attend the hearing to support their motion, I find that this motion has been abandoned.

It is ordered that:

1. The request to review order LTB-L-094756-25-SA, issued on February 4, 2026, is granted.
2. Order LTB-L-094756-25-SA, issued on February 4, 2026, is cancelled.
3. The motion to set aside order LTB-L-094756-25, issued on November 17, 2025, is denied.
4. The stay of order LTB-L-094756-25, issued on November 17, 2025, is lifted immediately.

March 25, 2026
Date Issued

Candace Aboussafy
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.