



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

File Number: LTB-L-108093-25-SA

In the matter of: 20 SAMUEL DR
Guelph ON N1L0K2

Between: Gurvinder Cheema Landlord

And

Carl Peaks Tenant

Gurvinder Cheema (the 'Landlord') applied for an order to terminate the tenancy and evict Carl Peaks (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 December 2, 2024 with respect to application LTB-L-067191-24.

The Landlord's application was resolved by order LTB-L-108093-25, issued on January 9, 2026. This order was issued without a hearing being held.

The Tenant filed a motion to set aside order LTB-L-108093-25.

This motion was heard by videoconference on March 3, 2026.

The Landlord's Legal Representative Ali Bukhari and the Tenant attended the hearing.

Determinations:

There was a breach of the previous order

1. The Tenant failed to meet a condition specified in the order issued by the LTB on December 2, 2024, with respect to application LTB-L-067191-24.
2. It was agreed by the parties that the Tenant failed to pay \$492.00 on or before November 25, 2025

The surrounding circumstances

3. After considering all of the circumstances, I find that it would not be unfair to set aside order LTB-L-108093-25.

4. The missed payment of \$492.00 on or before November 25, 2025 was the second last payment required by the original order, with the final payment of \$182.00 being due on December 25, 2025. This payment was also missed by the Tenant.
5. The Tenant testified that he lost his job on September 15, 2025 and immediately filed for Employment Insurance, however his claim was initially denied and he was not sent the denial letter. He subsequently appealed the decision to the Social Security Tribunal where he was approved in early 2026.
6. The Tenant testified that he made all of the missed payments and paid his lawful monthly rent for December through March on February 27, 2026, after he received his approval and the retroactive Employment Insurance funds he received. The Landlord's Legal Representative did not dispute that the Tenant has now made all the payments and is now current on his rental ledger. The Tenant is receiving \$525 per week from Employment Insurance and is working with his union to be reinstated to his job.
7. The Landlord's Legal Representative testified that the Landlord incurred additional charges as a result of the Tenants failure to comply with the original order, including sheriff fees of \$321.00 as the Tenant had not communicated his intention to bring his ledger to a zero balance and make up the missed payments.
8. I am prepared to accept that the breach flowed from a new and unforeseeable event and note that the Tenant has now made up for the missed payments and brought his ledger to a zero balance. Additionally, I note that the payment missed by the Tenant was the second to last payment in the original order, which is now spent.
9. In consideration of this I am satisfied that it is appropriate to set aside the eviction order and find that there is minimal prejudice to the Landlord in doing so.

The Enforcement Costs

10. While the Landlord's Legal Representative sought compensation for the \$321.00 sheriff's fee incurred by the Landlord, they did not direct me to any part of Section 78(11) of the Act which would allow me to order this cost paid by the Tenant.
11. However, I note that in certain circumstances the Board has required a Tenant to pay enforcement costs. For example in TEL-82636-17-RV (Re), 2017 CanLII 93934 (ON LTB). This is a review order from the Board which notes at paragraph 10 that:

"Pursuant to s. 204(2) of the Residential Tenancies Act, 2006 (the 'Act') the Board may order a party to an application to pay the costs of another party. The Board's Interpretation Guideline 3 on Costs is silent on the issue of this enforcement fee but the Act is not. In a slightly different context, subsection 74(15) makes it very clear that if a landlord incurs non-refundable enforcement costs the tenant must pay those costs if he or she wishes to remain in the unit and avoid eviction. There is no discretion in the Board not to order a tenant to pay those costs"

12. In short, while Section 78(11) may not indicate that a Landlord is entitled to enforcement costs, the Board may award such costs at its own discretion under its authority to award costs under Section 204(2) and Guideline 3, when it considers it appropriate to do so.

However, when I adopt the reasoning set out in TEL-82636-17-RV I find that this is appropriate only in exceptional circumstances.

13. I acknowledge that TEL-82636-17-RV (Re), 2017 CanLII 93934 (ON LTB) is a review decision of an L1, not a motion to set aside under Section 78 of the act, like the matter before me, and while this decision is not binding on me, I find it is appropriate to adopt the same reasoning expressed.
14. In TEL-82636-17-RV (Re), 2017 CanLII 93934 (ON LTB) the reviewing Vice Chair found that the Tenant waited to file her review to buy herself more time before being in a position where she would have to pay or move, and that if the Tenant had filed the review in a timely manner instead of waiting almost to the end of the limitation period, the Landlord would not have incurred the enforcement costs. The Vice Chair also noted that the Tenant in TEL-82636-17-RV had been before the Board the Board for non-payment of rent seven times since 2010 and is knowledgeable of the manner in which Board orders are voided.
15. In this case before me the Landlord's Application for eviction and payment was filed on December 23, 2025, and the ex-parte order terminating the tenancy was issued on January 9, 2026. The Landlord presumably filed for enforcement around January 23, 2026 as their receipt from the Sherrif bears this date. The Tenant filed their motion to set aside on Februray 3, 2026 and paid all the ousting arrears and made their ledger current on Februray 27, 2026.
16. Ultimately, while I find that I have the authority to order the Tenant to pay the Landlord's enforcement fees as cost by applying the reasoning set out in TEL-82636-17-RV I am not satisfied that it is appropriate to do so here. In TEL-82636-17-RV the Tenant had waited until the limitation period had almost expired to file their request to review in order to buy herself more time before being in a position where she would have to pay or move, whereas in this case I am satisfied that the Tenant filed his motion to set aside promptly. Additionally, while the Tenant may have intended to pay the arrears and make his ledger current, I am satisfied that this was contingent upon the outcome of his appeal to the Social Security Tribunal, and I am satisfied that the Tenant promptly paid the Landlord and brought his ledger to a zero balance as soon as he was reliably able to do so after securing funds.
17. Therefore, I am not satisfied that the Tenant in this case has acted in a manner which would warrant a discretionary order of costs under Section 204(2) or Guideline 3.
18. Therefore, as Section 78(11) of the Act does not explicitly contain a mechanism which allows me to order the Tenant to pay the Landlord's enforcement costs, as I am not satisfied that it is appropriate to order the Tenant to pay enforcements costs under Section 204(2) or Guideline 3, the Tenant shall not be ordered to pay the enforcement costs incurred by the Landlord.

It is ordered that:

1. The motion to set aside Order LTB-L-108093-25, issued on January 9, 2026, is granted.
2. Order LTB-L-108093-25, issued on January 9, 2026, is set aside and cannot be enforced.

3. The previous order issued on December 2, 2024 with respect to LTB-L-067191-24 is spent.

April 7, 2026
Date Issued

Reid Jackson
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.