



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

Citation: Sivakumar v Gocsal, 2026 ONLTB 35202

Date: 2026-05-05

File Number: LTB-L-018953-26-SA

In the matter of: 35 NEELANDS CRES
SCARBOROUGH ON M1E0B6

Between: Sujitha Sivakumar Landlord

And

Andrea Gocsal Tenant

Sujitha Sivakumar (the 'Landlord') applied for an order to terminate the tenancy and evict Andrea Gocsal (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 January 5, 2026 with respect to application LTB-L086688-25-SA.

The Landlord's application was resolved by order LTB-L-018953-26, issued on March 6, 2026. This order was issued without a hearing being held.

The Tenant filed a motion to set aside order LTB-L-018953-26.

This motion was heard by videoconference on April 28, 2026.

The Landlord, the Landlord's representative, Thirukumar Thirunavukarasu, the Tenant and the Tenant's representative, Kevin LaForest, attended the hearing.

Determinations:

There was a breach of the previous order

1. The Tenant admitted that she did not pay the \$300.00 arrears payment as required by order LTB-L-086688-25-SA issued on January 5, 2026.
2. As such, I find that the Tenant failed to meet a condition specified in the order issued by the LTB on January 5, 2026 with respect to application LTB-L086688-25-SA.

The surrounding circumstances

3. The Tenant stated while she has continued to pay her rent in full and on time as required, she became confused about the payment of arrears given the number of applications the Landlord filed against her and a Notice of Vacate she received from the Sheriff's office. The Tenant's representative argued that I should, in fact, find the Landlord was a vexatious litigation.
4. A review of the Board's files regarding this tenancy discloses the following procedural history:
 - On November 28, 2024, Landlord filed L1 application for non-payment of rent **LTB-L-097922-24**
 - Consent order issued on March 17, 2025 setting out payment plan for Tenant to pay rent arrears and costs of \$7,669.28
 - On July 25, 2025, the Landlord filed L4 application **LTB-L-058638-25** for breach of consent order issued on March 17, 2025 (i.e. did not pay full rent on July 1, 2025)
 - Exparte order was issued on August 5, 2025 terminating tenancy
 - On August 14, 2025, Tenant filed a motion to set aside exparte order
 - Tenant's motion was granted by order LTB-L-058638-25-SA issued on September 18, 2025 after it was determined that there was no breach because Landlord improperly applied a portion of the Tenant's rent payment to unpaid utilities (i.e. water)
 - On September 30, 2025, Landlord filed a request to review the set aside order
 - Landlord's request for review was denied by review order issued on October 3, 2025
 - On October 15, 2025, the Landlord filed L4 application **LTB-L-086688-25** for breach of consent order issued on March 17, 2025 (i.e. did not pay \$300 arrears payment on September 15, 2025)
 - Exparte order was issued on October 22, 2025 terminating the tenancy
 - On October 27, 2025, the Tenant filed a motion to set aside the exparte order
 - Tenant's motion was granted by order LTB-L-086688-25-SA issued on January 5, 2026 even though the breach was confirmed because the Member found that the Tenant may have been confused by overlapping Board orders and the Landlord improperly applying payments to unpaid utilities. The set aside order established a new payment plan for payment of the arrears of rent up to November 30, 2025.
 - On March 2, 2026, the Landlord filed L4 application **LTB-L-018953-26** for breach of the set-aside order issued on January 5, 2026 (i.e. did not pay the \$300 arrears payment on February 15, 2026)
 - Exparte order was issued on March 6, 2026 terminating the tenancy
 - On March 20, 2026, the Tenant filed a motion to set aside the exparte order
 - On March 31, 20256, the Tenant also filed a request to review the exparte order, which review was denied by order dated April 1, 2026

5. As evidenced above, the parties entered into a consent order for payment of rent arrears on March 17, 2025. Since that time, the Landlord obtained three ex parte orders for eviction based on breaches of a payment plan:
 - The first ex parte order was set aside. It was determined that there was no breach after it was determined that the Landlord had improperly applied a portion of the payments from the Tenant to unpaid utilities.
 - The second ex parte was set aside even though a breach was confirmed because it was reasonable that overlapping orders confused the Tenant
6. In this third set-aside motion, the Tenant again asserts confusion due to the number of applications filed by the Landlord. Given the procedural history, I am not persuaded that any confusion on the part of the Tenant is the reason for this breach. Rather, I find that the Tenant deliberately withheld the arrears payments because she was angry at the Landlord filing multiple L4 applications, believing she was being harassed.
7. That being said, I offered the Tenant an opportunity to e-transfer the missed arrears payments for February, March and April 2026 (i.e. \$900.00), of which the Landlord subsequently confirmed receipt.
8. Given that order LTB-L-018953-26 was stayed on March 23, 2026, the Tenant also accused the Landlord of fraudulently proceeding with enforcement on April 10, 2026 because the Tenant received a Notice to Vacate the unit on May 11, 2026 from the Sheriff [Doc 7810125, page 33].
9. The Board's file indicates that they emailed the Sheriff a Notice of Stay on March 23, 2026. The Landlord testified that when she received order LTB-L-018953-26-RV issued on April 1, 2026 denying the Tenant's review, she believed that she could proceed with enforcement. In my view, the Sheriff confirmed the Landlord's belief because they issued the Notice to Vacate on April 10, 2026. It appears that neither the Sheriff nor the Landlord understood that there were two stays of the order in place: one for the Tenant's motion and one for the Tenant's review. As such, I am not persuaded that the Landlord set out to fraudulently enforce eviction. Regardless, the Tenant's representative confirmed that he spoke with the Sheriff two days prior to this hearing, that the Sheriff confirmed their mistake and that the Notice to Vacate was cancelled and would not be enforced.
10. Suffice it to say that all of the above explains why I declined to find that the Landlord was a vexatious litigant. There is nothing vexatious about a landlord filing an L4 application if terms of an order have been breached. I am satisfied that the Tenant is responsible for breaching agreements to pay arrears on two occasions. There is no evidence before me that the Landlord acted maliciously to make it appear that the Tenant had breached payment agreements three times when she improperly applied a portion of payments from the Tenant to alleged unpaid utilities.
11. The Landlord confirmed that she has filed no other applications against the Tenant with respect to breaches of the payment arrangements set out in order LTB-I-086688-25-SA and that given the e-transfer payment made today by the Tenant, all arrears payments are up to date. There is no outstanding new rent.

12. While the Landlord's representative argued that the Tenant's breaches of payment arrangements caused the Landlord financial hardship, the Landlord admitted that there had been no change significant change in her financial circumstances since she entered into the initial payment arrangement on March 17, 2025. As such, I find there is little prejudice to the Landlord in having the payment plan set out in order LTB-L-086688-25-SA continue.
13. After considering all of the circumstances, I find that it would not be unfair to set aside order LTB-L-018953-26. Arrears payments are up-to-date and there is no outstanding new rent.

It is ordered that:

1. The motion to set aside Order LTB-L-018953-26, issued on March 6, 2026, is granted.
2. Order LTB-L-018953-26, issued on March 6, 2026, is set aside and cannot be enforced.
3. The previous order issued on January 5, 2026 with respect to LTB-L086688-25-SA is unchanged.

May 5, 2026
Date Issued

Karen Gonçalves
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.