



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

Citation: Biddington Property Management Corp. v Bartnik and Bartnik, 2026 ONLTB 11075

Date: 2026-05-01

File Numbers: LTB-L-078703-25-SA/LTB-L-087683-25-SA

In the matter of: UNITS 703 AND 606, 837 ROSELAWN AVE
YORK ON M6B1B5

Between: Biddington Property Management Corp. Landlord

And

Ryszard Bartnik Tenants
Malgorzata Bartnik

In Board file LTB-L-078703-25 Biddington Property Management Corp. (the 'Landlord') applied for an order to terminate the tenancy and evict Ryszard Bartnik (the 'Tenant of unit 703') because the Tenant of unit 703 did not meet a condition specified in order LTB-L-037451-25-SA-AM issued by the Board on July 28, 2025. The Landlord's application was resolved without a hearing by order LTB-L-078703-25, issued on October 21, 2025.

On November 13, 2025, the Tenant of unit 703 filed a motion to set aside order LTB-L-078703-25.

In Board file LTB-L-087683-25 the Landlord applied for an order to terminate the tenancy and evict Malgorzata Bartnik (the 'Tenant of unit 606') because the Tenant of unit 606 did not meet a condition specified in order LTB-L-018523-25-SA issued by the Board on August 6, 2025. The Landlord's application was resolved without a hearing by order LTB-L-087683-25, issued on October 27, 2025.

On November 13, 2025, the Tenant of unit 606 filed a motion to set aside order LTB-L-087683-25.

These motions were heard together by videoconference on December 10, 2025, and January 30, 2026.

The Landlord and the Tenants attended the hearing. The Landlord was represented by Christine Daniel and called as witnesses: Christopher Zuccaro (the 'Fire Inspector'); and Gobol Mailwagham (the 'Property Manager'). The Tenants testified on their own behalf and represented themselves throughout.

Determinations:

INTRODUCTION

1. These applications are about hoarding.
2. The Tenants are brother and sister and occupy two units of the same residential complex. The Tenant of unit 606 is 68 years old and a retired teacher. The Tenant of unit 703 is now 71, and a retired mechanical engineer. The Tenants have lived in their respective units for more than 30 years. Their mother, who is in her 90s and has dementia, lives in unit 606 with her daughter.
3. On July 24, 2023, the Fire Inspector issued an Inspection Order to the then landlord with respect to unit 703. On August 15, 2023, he issued a similar one with respect to unit 606.
4. The orders say the Fire Inspector found each of the units contains an excessive amount of combustible household possessions to the degree that it constitutes an undue fire hazard. The orders provide detailed reasons for coming to that conclusion based on observations of each unit and then list the actions required. The former landlord was required to ensure that in both units there is: at least one meter of working space around cooking and heating devices and exits and access doors; a pathway at least a meter wide in hallways and corridors and to each room to provide access to the interior; and a distance of at least one meter between any pile of possessions and the ceiling. The order with respect to unit 703 also says that there is to be clearance of at least 600 mm between combustible household possessions and walls.
5. After the two orders were issued, the building was sold to the current Landlord.
6. The two orders remain open and active more than two years later because the Tenants have not decluttered their respective units sufficiently to comply with the fire department's requirements. That means there is an ongoing serious impairment of safety, and the Landlord is vulnerable to prosecution for failing to comply with the Inspection Orders.
7. Following attempts to encourage the Tenants to clear out their units, the Landlord served on each Tenant a notice of termination alleging serious impairment of safety and filed subsequent applications for eviction orders.
8. With respect to the Tenant of unit 606, the Board issued order LTB-L-024535-24 on February 12, 2025, which was issued on consent of the parties. That order gave the Tenant until March 3, 2025, to comply with all of the conditions set out in the Fire Inspector's Inspection Order.
9. When the Tenant of unit 606 did not comply with the Board's order by March 3, 2025, the Landlord filed an L4 application with the Board which is contained in Board file LTB-L-018523-25. An eviction order was issued on March 17, 2025, without a hearing and the Tenant filed a motion to set aside the eviction order.
10. On August 6, 2025, the Board issued order LTB-L-024535-24-SA granting the Tenant's set aside motion and giving her until October 6, 2025, to declutter the unit.

11. When the Tenant did not comply with the new deadline, the Landlord filed another L4 application seeking eviction, and another eviction order was issued without a hearing. The Tenant then filed another set aside motion, which is the current motion before the Board with respect to unit 606.
12. A similar history unfolded with respect to the Tenant of unit 703. The Landlord filed an application based on a notice of termination alleging serious impairment of safety, and the Board subsequently issued order LTB-L-038750-24 on March 14, 2025, on consent of the parties. That order gave the Tenant until May 5, 2025, to comply with all of the conditions set out in the Fire Inspector's Inspection Order (except for the one requiring clearance of 600 mm from walls which is not mentioned).
13. When the Tenant of unit 703 did not comply by May 5, 2025, the Landlord filed an L4 application, an eviction order issued, and the Tenant filed a set aside motion. The Tenant's motion was granted by way of order LTB-L-037451-25-SA and the Tenant was given until September 15, 2025, to clear and declutter the unit.
14. When the Tenant of unit 703's new deadline passed, the Landlord filed another L4 application seeking eviction, and another eviction order was issued without a hearing. The Tenant then filed another set aside motion, which is the current motion before the Board with respect to unit 703.

THE ISSUES

15. What this means is that the issues before the Board with respect to each Tenant's motion are identical:
 - Did the Tenant in question breach the most recent Board order by failing to declutter their unit by the respective deadline?
 - If the Tenant did breach the prior order as alleged by the Landlord, would it be unfair in all of the circumstances to set aside the current eviction order? An examination of all of the circumstances would include evidence pertaining to:
 - The Tenant's personal circumstances, the present condition of the units, and steps taken to declutter and comply with the Inspection Order; and
 - The Landlord's circumstances which would include its behaviour in attempting to assist the Tenant, any admissible evidence of impact on other tenants of the building, and a consideration of the Landlord's obligations under the *Human Rights Code* if any, to accommodate the Tenant up to the point of undue hardship.
 - If the Board concludes it would not be unfair to set aside the eviction order, what order should be made in its place?
 - If the Board concludes it would be unfair to set aside the eviction order, when should the stay of the eviction orders be lifted so the evictions may proceed?

DID THE TENANTS BREACH THEIR RESPECTIVE PRIOR ORDERS?

16. With respect to the Tenant of unit 703, at the hearing held on December 10, 2025, he initially stated that he did not necessarily agree that he failed to comply with the prior order,

but then conceded that he had not. Photographs of the unit taken on September 15, 2025, that accompanied the Landlord's application show a section of hallway that is completely obstructed. The photographs also show a living room that is filled entirely with possessions; in some places those possessions are piled so high as to be within inches of touching the ceiling.

17. As the Tenant of unit 703 did not declutter the unit as required under the terms of order LTB-L-037451-25-SA by September 15, 2025, I am satisfied he breached that order.
18. The Tenant of unit 606 acknowledges she did not comply with Board order LTB-L-024535-24-SA issued on August 6, 2025, which required her to declutter the unit by October 6, 2025. Pictures of her unit that accompanied the Landlord's application taken on October 8, 2025, include one of a hallway leading to the living room that is completely obstructed with possessions.
19. As the Tenant of unit 606 did not declutter her unit by October 6, 2025, I am satisfied she breached order LTB-L-024535-24-SA issued on August 6, 2025.

WOULD IT BE UNFAIR IN ALL OF THE CIRCUMSTANCES TO SET ASIDE THE CURRENT EVICTION ORDERS?

20. The Tenants essentially take the position that it would not be unfair in all of the circumstances to set aside their respective eviction orders because all they need is more time. They say they are making progress albeit slowly. Their progress is impeded somewhat by age, infirmity and disability, and the need to care for their ailing mother. But they are willing and trying.
21. The Landlord takes the position that it would be unfair in all of the circumstances to set aside the eviction orders because the Tenants amply demonstrate they are either unwilling or unable to return their respective rental units to a condition that does not represent a serious fire hazard. The Landlord says the Tenants have repeatedly been offered supports to help them declutter which they have consistently refused.
22. I would agree with the Tenants in part, as the evidence before the Board supports the conclusion that some progress has been made. For example, photographs taken of unit 703 on January 15, 2026, show that enough clutter has been removed from the living room so that the pile of possessions that was formerly mere inches away from the ceiling is now more than a foot away. The Fire Inspector says a lot of progress has been made in the bedroom.
23. The photographs of unit 606 are less helpful in providing easy comparison between more recent and older photographs but the Fire Inspector says the items in the living room have been reduced somewhat and that is not inconsistent with what the photographs show. But he also says the aisle leading to the bedrooms is compromised and would impede the Tenant's ability to evacuate. That is consistent with a photograph showing a pathway that is considerably less than one meter wide. He also says there is insufficient clearance of possessions to permit the Tenant and her mother to access the balcony as a safe haven during an emergency. There are possessions piled around the balcony door that are less than one meter away.

24. So I would agree with the Tenants that they have made some progress. Unfortunately, the amount of progress they have made is minimal. The most recent photographs of unit 703 show a living room that cannot be used as a living room. It resembles a large construction waste disposal bin that is more than three-quarters full. The most recent photographs of unit 606 (which is a two-bedroom apartment) show that one of the bedrooms is so filled with possessions it would be impossible to sleep there without climbing on top of the possessions; the bathtub is hidden behind possessions and only the toilet could be accessed in that room without moving things or leaning over them. Boxes and books are piled up both sides of a hallway creating a very narrow pathway.
25. In other words, the condition of each of the two rental units continues to constitute a serious impairment of safety.

The Tenants' Circumstances

26. As stated above, the Tenants are brother and sister. The Tenant of unit 703 is 71 years old and a retired engineer. He says he has a serious hernia condition and has had to delay much needed surgery because of the threat hanging over his housing. He describes the reasons for his excessive possessions as mostly being about books but uses the phrase, "it's a mental thing". He is in receipt of Canada Pension Plan and his monthly income is about \$1,800.00. He says he has about \$20,000.00 in his Tax Free Savings Account.
27. The Tenant of unit 606 is a retired teacher. She has an income of about \$2,300.00 a month and savings of approximately \$60,000.00. The Tenants' mother lives in unit 606, is about 90 and has dementia. The Tenant says caring for her mother slows her down. The possessions in the rental unit include precious teaching materials and supplies for her mother. According to the Tenant, she is a good person and a good tenant and has neighbours who are very supportive and helpful. She should be allowed to stay.
28. At some point in time the Tenants rented three storage lockers, presumably so they could move possessions into them to declutter their units. They are willing to rent more as needed, but the three they have are not full.
29. The Tenants do not deny that they have been offered some services by the Landlord. They declined those services because they believe an employee of the Landlord stole items from one or more of their units. They do not trust the Landlord to help them move their possessions to their storage lockers.
30. The Tenant of unit 703 says they contacted a hoarding company to help them but led no evidence as to what happened as a result of that. When asked why he did not just hire movers to move his excess possessions to storage he replied that he needs to keep some of his money to pay for his funeral expenses.
31. The Tenant of unit 606 says that after the prior set aside hearing she set about cleaning her unit but then started getting phone calls that made her think the Landlord may have somehow derailed the Board process and she was going to be evicted anyway. The phone calls she refers to were from referrals the Fire Inspector made to other city services offering assistance in order to help her. She says she got calls from the City, paramedics and shelters, and found it to be devastating. It caused her a lot of stress which impeded her progress as did the condition of her mother who was hospitalised for a while. When

asked why she did not hire movers to help her she talked about the cost, the fact that she has wonderful friends and neighbours to help her watch her mother and says that will help her go through her teaching materials faster.

The Landlord's Circumstances

32. The Property Manager says the current Landlord has been working with the Tenants since February of 2024 in an effort to help them declutter their units. At that time he met with the Tenants and offered to pay for a company to help declutter. He says the Landlord is prepared to hire a truck and a cleaning company. All offers of assistance to date have been refused. He says prior to the current Landlord taking over, the Tenants accused the then resident manager from taking items from them. I took this to mean this prior incident was the Tenants' rationale for refusing offers of assistance. The Tenants say they do not trust people and can do the work themselves.
33. According to the Property Manager the Landlord is concerned about the safety of the Tenants and other residents of the building. It is also concerned that it will be prosecuted because of the unresolved Inspection Order and the possibility of personal fines.
34. With respect to other residents of the building the Landlord proffered hearsay evidence from other tenants which the Tenants objected to. I refused to allow the hearsay evidence to be entered pursuant to the Divisional Court's decision in *Manikam v. Toronto Community Housing Corporation*, 2019 ONSC 2083. Although relevant hearsay is admissible in Board proceedings, in circumstances like these the Tenants are entitled to confront material evidence through cross-examination. As none of the other tenants were present or summonsed to be cross-examined, I declined to permit the hearsay evidence.

The Human Rights Code

35. Although neither Tenant led corroborating medical evidence or even testified that they have been diagnosed with a hoarding disorder, I accept for the purposes of this order, that it is more likely than not they do and the *Human Rights Code* is engaged. Their behaviour, the state of their respective units, and their references to their mental states all support the conclusion that the Tenants have one or more disabilities that are related to the unsafe condition of the rental units and their failure to make real and meaningful progress towards addressing the situation.
36. Under the *Code*, when a landlord becomes aware of conditions that might suggest a hoarding disorder is preventing a tenant from complying with their legal obligation to maintain the rental unit in a state of ordinary cleanliness, the landlord has a duty to inquire. The Landlord here met that obligation in February of 2024 when it talked to the Tenants and explored what could be done to declutter the rental units.
37. With respect to the substantive duty to accommodate, the Landlord offered accommodation at least twice with respect to each Tenant. It did so by offering services in February of 2024 that were refused, and it did so again when both original applications for eviction came before the Board. At that point in time, it used the Board's mechanisms and entered into consents to Board orders that gave the Tenants the accommodation they wanted – which was more time to declutter the unit. The Tenants then gained more time

through the prior set aside motion process when their motions were granted on the basis that if the Tenants could declutter their respective rental units in a reasonable period of time, it would not be unfair to set aside the eviction orders.

38. In terms of the timelines here, according to the Board's records, the Tenant of unit 606 was served the original notice of termination in Form N7 on March 19, 2024. The Tenant of unit 703 was served his on April 9, 2024. The most recent orders giving the Tenants additional time to declutter their units were issued on July 28, 2025 with respect to unit 703 and on August 6, 2025 with respect to unit 606.
39. So the Tenants have had more than two years to declutter their respective units and have failed to do so to any meaningful extent. In other words, all attempts to accommodate the Tenants have failed. As they continue to refuse offers of outside assistance and indicate that will not change, and continue to insist they can declutter on their own despite all evidence to the contrary, I am satisfied the Landlord has discharged its obligations under the *Code*.

Conclusion re "would it be unfair" to set aside the eviction orders?

40. The Tenants' motions must be denied. Their behaviour in failing to meaningfully make progress on decluttering their respective units for more than two years amply establishes that no matter how willing the Tenants may be, their continued refusal to accept or pay for assistance means they are not capable of restoring their respective rental units to a safe state. Whatever small progress the Tenants have been able to make over the last two years strongly supports the conclusion that their units will continue to be both serious fire hazards and unfit for habitation for the foreseeable future. As a result, it would be unfair in all of the circumstances to set aside the eviction orders.

THE LIFTING OF THE STAY

41. The Tenants are getting older, they are caring for an elderly mother with dementia, and they have limited financial means. After the most recent pictures of the units were taken on January 15, 2026, the elevators went out of service. But it was anticipated that the elevators would be back in service no more than a week following the hearing before the Board.
42. Given all of the circumstances here, finding new housing will be a difficult challenge for the Tenants and given the enormous amount of possessions they are currently hoarding, moving will present significant challenges. Therefore, some delay in lifting the stay of the eviction order would be appropriate. The Landlord suggests a month. I disagree. A more appropriate period of time would be three months given the situation here. Therefore, the stay shall be lifted effective July 31, 2026.
43. This order contains all of the reasons for the decision within it. No further reasons shall be issued.

It is ordered that:

1. The motion to set aside order LTB-L-078703-25, issued on October 21, 2025, is denied.

2. The stay of order LTB-L-078703-25 is lifted on July 31, 2026.
3. Order LTB-L-078703-25 is unchanged.
4. The motion to set aside order LTB-L-087683-25 issued on October 27, 2025, is denied.
5. The stay of order LTB-L-087683-25 is lifted on July 31, 2026.
6. Order LTB-L-087683-25 is unchanged.

May 1, 2026
Date Issued

Ruth Carey
Vice Chair, 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.