



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

Citation: DaCosta v Bazon, 2026 ONLTB 35806

Date: 2026-05-07

File Number: LTB-L-019368-26-SA

In the matter of: unit 2, 14 Chalmers Street
Cambridge ON N1R5B2

Between: Kelly DaCosta Landlord

And

Alyssa Bazon Tenant

Kelly DaCosta (the 'Landlord') applied for an order to terminate the tenancy and evict Alyssa Bazon (the 'Tenant') and for an order to have the Tenant pay compensation for damage they owe because the Tenant did not meet a condition specified in the order issued by the LTB on September 23, 2025 with respect to application LTB-L-040113-25.

The Landlord's application was resolved by order LTB-L-019368-26, issued on March 9, 2026. This order was issued without a hearing being held.

The Tenant filed a motion to set aside order LTB-L-019368-26.

This motion was heard by videoconference on April 27, 2026.

The Landlord and the Tenant attended the hearing.

Determinations:

1. The first issue before the Board is whether there was a breach of order LTB-L-040113-25 issued on September 23, 2025 as alleged by the Landlord. At the hearing, the Tenant agreed she breached the terms of the order; specifically, she failed to pay the rent for March 2026 in full on or before March 1, 2026.
2. 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 *Residential Tenancies Act, 2006* (the 'Act').

3. The Tenant testified that she was in the ICU on February 28, 2026 and was discharged on March 4, 2026. The Tenant was assaulted by her ex-partner who was arrested and placed in jail. The Tenant has had to return to the hospital for her injuries.
4. The Tenant testified that she was not in control of her finances and she thought her rent was up to date.
5. The Tenant testified that she is no longer in a relationship with her ex-partner and has funds to pay the Landlord the balance for March 2026 and the rent for April 2026.
6. The Landlord opposed the Tenant's motion submitting that the Tenant has also failed to pay the rent for April 2026 and that the Tenant has been in arrears and continuously late with payments for over a year and a half.

Analysis

7. There is no dispute that the Tenant breached the order issued on September 23, 2025.
8. The Board's expectation is that orders issued will be complied with by the parties. However, the purpose of subsection 78(11)(b) of the Act is provide for the possibility of relief from eviction where there has been a breach of a mediated agreement or order but there are extenuating circumstances to consider. The Board is usually interested in knowing whether or not the breach was unavoidable, or a result of events beyond the tenant's control.
9. The Tenant provided no evidence of her hospitalization or the arrest of her ex-partner. I note that the Tenant did not submit any of these circumstances on her motion to set aside filed on March 19, 2026.
10. Without any supporting documentation, I am not convinced that the Tenant breached the order due to extenuating circumstances. Not only did the Tenant breach with the order with March's rent, but the Tenant also failed to pay the Landlord rent for April 2026. Given the circumstances, I find that it would be unfair to set aside the eviction order. The evidence is insufficient to establish the Tenant's defaults were reasonable and I am not confident that the Tenant will comply with another prompt payment order.
11. Considering the Landlord has a last month's rent deposit and there is a child in the rental unit, some delay with respect to lifting of the stay is reasonable and would not unduly prejudice the Landlord. If the Tenant's evidence is true and she has \$4,000.00, she should have the funds necessary to secure alternative housing. As such, I believe a short delay to May 31, 2026 to be reasonable.

It is ordered that:

1. The motion to set aside Order LTB-L-019368-26, issued on March 9, 2026, is denied.
2. The stay of order LTB-L-019368-26 is lifted on May 31, 2026.

3. Order LTB-L-019368-26 is unchanged.

May 7, 2026
Date Issued

Vicky Liu
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.