



Order under Section 78(6) Residential Tenancies Act, 2006

Citation: Sivakumar v Gocsal, 2026 ONLTB 37609

Date: 2026-05-15

File Number: LTB-L-014110-26

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 failed to meet a condition specified in the order issued by the LTB on January 5, 2026 with respect to application LTB-L-086688-25-SA.

A hearing was held by videoconference on April 14, 2026, to consider this application.

The Landlord's legal representative Tom Thiru, the Landlord, the Tenant's legal representative Kevin Laforrest, and the Tenant attended the hearing.

Determinations:

1. The order provides that the Landlord can apply to the LTB under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') without notice to the Tenant to terminate the tenancy and evict the Tenant if the Tenant does not meet certain conditions in the order.
2. This application was filed within 30 days of the alleged breach.

The Alleged Breach

3. The Tenant's representative raised a preliminary issue that the Landlord's allegation of a breach was unclear, and that the Landlord failed to comply with an endorsement issued by the LTB on March 2, 2026.
4. While the L4 application did not correctly detail the new rent or payments made by the Tenant, the Landlord listed a \$300.00 payment for arrears up to January 15, 2026. The declaration included together with the Landlord's L4 application states,

“Today Feb. 15th 2026 yet the payment of \$300.00 which is due on January 15, 2026 has not been paid.”

5. The Landlord’s application contained sufficient information and detail to determine that the breach being alleged was non-payment of \$300.00 for arrears due on January 15, 2026.
6. The Landlord testified that he did not receive a payment due pursuant to the previous order which is normally received by e-transfer. The Landlord’s evidence is that the Tenant was required to pay \$300.00 on the 15th day of each month commencing January 15, 2026.
7. Despite the Landlord testifying they did not receive payments pursuant to the order, the Landlord conceded on cross-examination that they received a payment of \$300.00 on January 14, 2026.
8. The Landlord then testified that the Tenant failed to pay 300.00 in December 2025 and submits that the payment made in January should have been allocated to December 2025.
9. First, the Landlord’s application does not allege a breach of a payment required in December 2025, and the previous order in LTB-L-086688-25-SA does not require a \$300.00 payment on December 15, 2025. The payment schedule of \$300.00 per month commences on January 15, 2026.
10. Next, the Landlord’s contradictory testimony at the hearing is that he was relying on a breach from December despite what was written in the application form. However, as noted above this was not plead, there was no payment required in December 2025, and any alleged “breach” of a December payment would be barred by section 78(5) of the Act requiring the L4 application be filed within 30 days of the breach.
11. Finally, the in relation to the breach actually alleged in the Landlord’s L4 application, the Tenant paid the Landlord \$300.00 on January 14, 2026, in satisfaction of the payment due on January 15, 2026, pursuant to LTB-L-086688-25-SA.
12. Accordingly, I find that the Tenant did not fail to meet a condition specified in order LTB-L-086688-25-SA.

Costs

13. The Board’s Interpretation Guideline 3: Costs provides:

A Member has the discretion to require a party, a party’s agent or a party’s legal representative to pay, as costs, any representation or preparation expenses of another party where the conduct of the party, a party’s agent or a party’s legal representative was unreasonable. Conduct is unreasonable if it causes undue expense or delay and includes the following:

1. Bringing a frivolous or vexatious application or motion;

14. The Tenant's representative requested costs on the basis of previous L4 applications and subsequent set aside motions that were successful submitting that the Tenant has had to file 5 set aside motions and will have another hearing at the end of April 2026 for their sixth motion.
15. The Tenant's representative made further submissions in relation to prior set aside motions that were granted and referenced the decision in LTB-L-058638-25-SA-RV, which was based on a similar fact scenario as this matter.
16. The Landlord was represented, and this ought not to have happened for a second time on such similar issues as those in LTB-L-058638-25-SA-RV. Despite this, the Landlord's representative made submissions that the Landlord's mortgage is in default, and it is important that the Tenant comply with the conditions of the order.
17. Costs are ordered on a discretionary basis and in these circumstances, I find that costs would be unduly punitive given the submissions in relation to the Landlord's already precarious financial situation. Accordingly, I decline to order costs.

It is ordered that:

1. The Landlord's L4 application is dismissed.
2. Order LTB-L-086688-25-SA is confirmed and remains unchanged.

May 15, 2026
Date Issued

Kyle McGraw
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.