



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

File Number: LTB-L-106874-25-SA

In the matter of: 311, 330 GERRARD ST E
TORONTO ON M5A3V4

Between: Toronto Seniors Housing Corporation Landlord

And

Nhac Duong Tenant

Toronto Seniors Housing Corporation (the 'Landlord') applied for an order to terminate the tenancy and evict Nhac Duong (the 'Tenant') because the Tenant did not meet a condition specified in the order issued by the LTB on November 17, 2025 with respect to application LTB-L-076711-25-SA.

The Landlord's application was resolved by order LTB-L-106874-25, issued on January 7, 2026. This order was issued without a hearing being held.

The Tenant filed a motion to set aside order LTB-L-106874-25.

This motion was heard by videoconference on May 4, 2026. The Landlord's representative Adam Fraccaro, and the Tenant represented by Victoria Peter, attended the hearing.

Determinations:

1. At a hearing held on November 12, 2025, the same representatives submitted terms of a consent agreement, which if breached, permitted the Landlord to apply without notice to the Tenant, to the Board for an order terminating the tenancy, and evicting the Tenant.
2. The order included a number of conditions that applied for an 18-month period, including to keep the clutter level at level 3 or below, to maintain the unit in an ordinary state of cleanliness, not to store bicycles, scooters or electric vehicles in the unit, not to overload electrical outlets, not to tamper or remove life safety devices, among other conditions.
3. Condition 16 of the order was that the Tenant would not deny the Landlord or the Landlord's authorized representatives' access to the rental unit where notice as been provided by the Landlord.
4. On December 17, 2025, the Landlord was denied entry to the rental unit by the Tenant as explained below. On December 18, 2025, the Landlord filed an L4 application. On

January 7, 2026, the Board issued order LTB-L-106874-25 terminating the tenancy on January 18, 2026.

5. On February 3, 2026, the Landlord filed the order with the Court Enforcement Officer and on March 19, 2026 the Landlord received vacant possession of the rental unit.
6. On March 25, 2026, the Tenant requested an extension of time to file a set aside motion, claiming that the Tenant had not received a copy of the Vacant Possession Notice until March 19, 2026, which was after the deadline to file a set aside motion. The request to extend time did not inform the Board that order LTB-L-106874-25 had been enforced. The request to extend time was granted.
7. The same day, the Tenant filed a set aside motion. The Tenant's representative is seeking for the tenancy to be reinstated and for the Tenant to be put back into possession.
8. In other cases, the Board has addressed three situations where it may be required to consider ordering a tenant back into possession.
 - Where the tenant was legally evicted, but a review of an eviction order is granted;
 - Where the landlord has illegally locked out a tenant and the tenant files a T2 application seeking to go back into possession of the rental unit (or a section 82 claim for the same relief; and
 - On a T5 where a former tenant seeks to be returned to possession because they left pursuant to a bad faith notice or were not afforded the right of first refusal.
9. Since the matter before me is not a T2 or T5 application, I have considered the first situation listed above – where a review of an enforced eviction order is granted – and considered whether it may apply in principle to the set aside motion before me.
10. Regarding the first situation involving a successful review, I find that the Board's authority to restore a tenant back in possession comes from the *Residential Tenancies Act*, and the *Statutory Powers Procedures Act* (SPPA) subsection 184(1) that states that the SPPA applies with respect to all proceedings before the Board, and section 23(1) of the SPPA says a tribunal may make such orders or give such directions in proceedings before it as it considers proper to prevent abuse of its processes.
11. In *MTHA v Ahmed* (2001) O.J. No. 1477: the Divisional Court affirmed the Board may, under s.23(1) of the SPPA, restore to possession a tenant evicted by the sheriff pursuant to a Board order where the Board finds there was an abuse of process.
12. The Abuse of Process Doctrine requires a tribunal to prevent the misuse of its procedure in a way that would bring the administration of justice into disrepute. It is a flexible doctrine, not bound by specific requirements. The authority to prevent an abuse of process is an inherent power of the courts and an authority granted to tribunals by SPPA s. 23(1)...It can apply to actions of the participants in proceedings which lead to the Board's processes being used to achieve an injustice. The abuse need not be malicious or intentional and can derive from circumstances beyond the control of the parties.

13. In the present case, five days before the Landlord intended to enter the Tenant's rental unit, the Landlord served notice in both English and Cantonese, the language familiar to the Tenant. When the Tenant would not allow entry on December 17th, the Landlord called a Cantonese interpreter, who spoke with the Tenant. The Tenant hung up and closed the door denying entry.
14. After the Landlord received order LTB-L-106874-25 which ordered the termination of the tenancy, Mr. Fraccaro sent an email to Ms. Peter, the Tenant's legal representative at the hearing held on November 12, 2025 stating that "As a courtesy, I am writing to you today to inform you that this Tenant has breached the previous LTB Order that was issued on Consent. An L4 was filed and we have just obtained an order terminating the tenancy. We still have the Tenants consent to discuss this matter with our office, so I have attached a copy of the most recent Order to this email." The subject line states "Seeking consent to motion to set aside". Ms. Peter did not respond or take any steps regarding the Tenant's eviction.
15. The same day, Subrata Sarker, the Landlord's Tenant Services Administrator, sent a email marked 'High Importance', to the Tenant's Public Guardian Trustee with a copy of the Eviction Order.
16. The Landlord also served the Tenant with what they refer to as a soft-landing package to assist the Tenant. The information is intended to assist a tenant and included a regional resource sheet, which lists several support services, and informed the Tenant that if the Tenant needs further assistance or has any questions, to contact the Landlord or drop by the office.
17. The Landlord waited three weeks to file the order for enforcement, after the Landlord had informed the Tenant's representative and the Public Guardian Trustee about the eviction order, and had not hear from either.
18. Based upon the above series of events, I find there was no abuse of process. The Landlord provided the Tenant a reasonable opportunity to comply with the conditions set out in the underlying consent order. After the Tenant breached the order, the Landlord obtained an eviction order from the Board in accordance with the Act and the Board's rules and processes and had it enforced lawfully. Given that there was no abuse of process, I am not satisfied that I have authority to restore the Tenant to possession on this motion, which is the remedy the Tenant is seeking. The Tenant also did not refer me to any such authority. Accordingly, the motion is denied.

It is ordered that:

1. The motion to set aside Order LTB-L-106874-25, issued on January 7, 2026, is denied.

May 19, 2026

Date Issued

Greg Joy

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.