



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

File Number: LTB-L-095186-25-SA

In the matter of: 917, 95 HESS ST S
HAMILTON ON L8P3N4

Between: CityHousing Hamilton Corporation Landlord

And

Yousif Odeshow Tenant

CityHousing Hamilton Corporation (the 'Landlord') applied for an order to terminate the tenancy and evict Yousif Odeshow (the 'Tenant') because the Tenant did not meet a condition specified in the order issued by the LTB on October 11, 2024 with respect to application LTB-L-021900-24.

The Landlord's application was resolved by order LTB-L-095186-25, issued on November 18, 2025. This order was issued without a hearing being held.

The Tenant filed a motion to set aside order LTB-L-095186-25.

This motion was heard by videoconference on May 11, 2026.

The Landlord's legal representative Vladimir Molatchenko, the Landlord's witness Laksay Gill, the Tenant and the Tenant's legal representative Merima Menzildzic attended the hearing.

Determinations:

1. The Tenant's motion to set aside the eviction order was brought pursuant to subsection 78(11) of the Residential Tenancies Act, 2006 (the "Act")
2. The Board must first determine whether or not the Tenant breached order LTB-L-021900-24 issued on October 11, 2024 (the "Section 78 Order").
3. The Section 78 Order provided that the Landlord could apply to the Board under section 78 of the Act without notice to the Tenant to terminate the tenancy and evict the Tenant if the Tenant did not meet certain conditions specified in the order.
4. If the Board finds that the Tenant did breach the Section 78 Order, then the Board must decide whether or not "in all the circumstances" it would be "unfair to set aside" the eviction order. If the Board determines that it would not be unfair to set aside the eviction order then

the Board is supposed to grant the motion and set aside the order. If the Board determines that it would be unfair to set aside the eviction order then the motion must be denied.

5. The Landlord submits the Section 78 Order was breached as a result of incidents occurring on October 23, 2025 and November 10, 2025. In particular, the Landlord submits the Tenant breached section 2 of the Section 78 Order, which provides as follows:

The Tenant shall not: intimidate, threaten, yell, scream curse, swear, name call, insult, abuse or make racial comments or slurs

6. The first incident occurred on October 23, 2025, as a result of an interaction involving the Tenant and the lobby security guard. The Landlord's security company supervisor Laksay Gill (LG) testified the Tenant was asked by the lobby security guard to clean up after his dog urinated in the elevator. According to LG, the Tenant became irate and consequently the building security guard telephoned LG who could hear the Tenant engaging in name calling and swearing. Later that evening, LG testified that he and the lobby security guard approached the Tenant who was standing outside to further discuss the situation. During this conversation, LG stated the Tenant once again began name-calling and using profane language, calling the Landlord's security staff "*liars/garbage*" and demanding that the accompanying security guard go inside.
7. While the Tenant's motion to set aside stated "*I was wrong to respond as I did. I formally apologize for my words*", at the hearing the Tenant denied any breach. The Tenant stated the lobby security guard did not make him feel good and was loud/rude. While the Tenant stated he may have used the term "garbage", the Tenant denied using profanity.
8. Based upon the evidence presented, I find the Tenant breached the Section 78 Order by using profane language towards the Landlord's security staff on October 23, 2025. While the Landlord's lobby security guard did not testify, the Landlord's security supervisor LG interacted with the Tenant on the day in question and provided direct evidence concerning his interactions. I found LG's testimony to be consistent and unwavering. Moreover, the Landlord also produced video footage of the October 23, 2025 interactions which showed the Tenant in an agitated state, while the Landlord's security staff appeared calm throughout. In the circumstances, I do not find the Landlord caused the Tenant's problematic behaviour and I find the Tenant breached provision 2 of the Section 78 Order.
9. For completeness, I note that the Landlord accused the Tenant of a second breach of the Section 78 Order on November 10, 2025. With respect to this incident, the Landlord alleges the Tenant used profane language towards the building lobby security guard. The building lobby security guard did not attend at the hearing to testify as the interaction involving the Tenant and the (non-audio) video footage rendered showed merely a portion of the interaction and was somewhat inconclusive. The Tenant, on the other hand, could not recall the incident, but in any event, denied using profanity. The onus to prove this allegation rests on the Landlord, and in the circumstances, I am not satisfied the Landlord's hearsay evidence with respect to this second incident has met this onus.

10. The next issue is whether or not “*in all the circumstances*” it would be “*unfair to set aside*” the eviction order.
11. The Landlord submits the Tenant has repeatedly breached the Section 78 Order and notes the current proceeding is the 2nd motion to set aside brought the Tenant (albeit the prior motion to set aside was decided on consent). The Landlord further submitted the Tenant has shown a pattern of problematic behaviour towards the Landlord’s security team and that the Board’s conditional orders are meant to be upheld and enforceable.
12. The Tenant lives alone and wishes to stay in the rental unit, where he has resided for approximately 7-8 years. While the Tenant did not produce any medical documentation, at the hearing it was submitted that the Tenant has a substance abuse problem and has experienced personal/family trauma in the past, which could be contributing factors impacting his behaviour. The Tenant is in receipt of ODSP and it was noted, has limited financial means and housing options should eviction be rendered.
13. I am mindful that this is the 2nd Tenant motion to set aside and that there is an expectation that mediated agreements are to be followed, as noted by the Landlord. While not excusable, the breach in question in this application involved a relatively spontaneous interaction between the Tenant and the Landlord’s security team. While LG indicated the lobby security guard felt “threatened” from the Tenant’s inappropriate language, the lobby security guard did not attend to speak to the impact of the interaction. Moreover, relatively little evidence was given as to how the Tenant’s unfortunate behaviour impacted the Landlord’s overall security or housing operations. On the other hand, it is clear that eviction could almost certainly have a disproportionate negative impact upon the Tenant whose housing alternatives, it was submitted, is precarious. Consequently, I find it would not be unfair to set aside the order and, in the process, grant the Tenant an additional opportunity to improve his behaviour and preserve the tenancy.
14. Given the relief granted and length of time since the Landlord’s L4 Application was originally filed, I find it appropriate to extend the Section 78 timeline for an additional 6 months and thereby change its original duration of “*24 months, starting October 3, 2024*” to “*30 months, starting October 3, 2024*” [emphasis added].

It is ordered that:

1. The motion to set aside Order LTB-L-095186-25, issued on November 18, 2025, is granted.
2. Order LTB-L-095186-25, issued on November 18, 2025, is set aside and cannot be enforced.
3. The previous order issued on October 11, 2024 with respect to LTB-L-021900-24 is amended as follows:
 - (i) Paragraph 2 is deleted and replaced with the following:

For a period of 30 months, starting October 3, 2024. The Tenant shall not:

-intimidate, threaten, yell, scream, curse, swear, name call, insult, abuse or make racial comments or slurs

-harass the security staff, CHH staff, ther tenants or visitors by any manner, including by phone, email or in person on CHH property.

May 20, 2026
Date Issued

Peter Nicholson
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.