



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

**File Number:** LTB-L-076234-24

**In the matter of:** 8, 105 VACHON AVE  
VANIER ON K1L5S7

**Between:** 105 Vachon Avenue Inc. Landlord

**And**

Darren Coulombe Tenants  
Colleen Frost

On September 19, 2024, 105 Vachon Avenue Inc. ('105VA' or the 'Landlord') applied for an order to terminate the tenancy and evict Darren Coulombe and Colleen Frost ('DC' and 'CF' or collectively, the 'Tenants') because they failed to meet a condition(s) specified in order LTB-L-051246-23 issued on May 1, 2024 (hereinafter, the "LTB Order"). The application that was filed on September 19, 2024 is called an L4 application.

L4 applications are usually resolved *ex parte* (without a hearing). This L4 application was sent to a hearing since the L4 needed some clarification regarding the condition(s) the Tenants are claimed to have breached.

A hearing was held by videoconference on May 12, 2026 to consider this L4 application.

The Landlord's Agent, Sheila Powers ('LLA'), the Tenants and the Tenants' Legal Representative, Allison Arcand ('TTR'), attended the hearing.

### **Determinations:**

1. The LTB 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 Tenants to terminate the tenancy and evict the Tenants if the Tenants do not meet certain conditions in the order.

#### The breach

2. First, I note the L4 application was filed within 30 days of one of the two alleged breaches having taken place. To be clear, the L4 application was filed on September 19, 2024. The first alleged breach was on July 31, 2024 when the Landlord inspected the rental unit and found the carpet provided the Tenants was not installed in the unit. The second

alleged breach took place on August 26, 28 and 30, 2024 when noise complaints against the rental unit Tenants was filed with the Landlord by another resident of the building. This means the first alleged breach technically fell outside the 30-day limit to file, whereas the second alleged breach was properly claimed under the L4.

3. As I noted at the outset, the L4 application has been pending since September 2024, which is over 1-1/2 years ago. For the purpose of having the L4 properly disposed of without too much ado, I elected to simply hear the claims and the rebuttal/circumstances heard in their entirety.
4. Referring to her declaration submitted with the L4 application, LLA testified the Tenants did not allow her and another Landlord representative into the rental unit in May 2024 to install a carpet the Landlord was ordered to provide under the LTB Order. She said she offered to install the carpet and the Tenants refused her offer. Instead, the carpet was accepted by the Tenants and LLA and the rep were then turned away. On July 31, 2024, the Landlord inspected the unit and found the carpet provided by the Landlord was not laid down in the rental unit. The purpose of the carpet was muffle or eliminate noises by the Tenants when walking late at night.
5. Further, LLA testified that noise complaints against the rental unit from a tenant living in unit 6 (below the rental unit) were received on August 26, 28 and 30, 2024. The undue noise – banging, thumping, dragging and dropping noises -- all happened between midnight and 6:00 am. LLA stated her belief the Landlords bring in and take out items during the early morning hours regularly.
6. LLA explained the unit 6 tenant is a cancer survivor who needs peace and quiet during the nights – LLA stated the Landlord has been made aware the unit 6 tenant may file against the Landlord if a satisfactory resolution is not reached.
7. LLA stated she prepared and disclosed additional possible evidence (including common area security camera footage) to show the Tenants still (in 2026) move things in and out of the rental unit in the early morning hours.
8. DC provided most of the Tenants' testimonial response. The Tenants testified LLA never offered to install the carpet, but they did accept the carpet. They confirmed before me that they still have the original carpet and underlay intact, as delivered by LLA to them in May 2024.
9. They testified they first tried using foam-type floor tiles as the method to muffle and eliminate undue noise. As the foam was difficult to keep clean, and with an ongoing issue with cockroaches, they decided to remove the foam tiles altogether. The Tenants stated that when they are unable to sleep, they busy themselves in the rental unit with watching TV, painting and other hobbies (sticker books, etc). They denied they use power tools, operate house appliances or even move furniture inside the unit during the night. They are quite aware they need to be quiet and affirmed their desire to work toward maintaining a quiet unit.
10. The Tenants testified they recently installed a new carpet and they made mention of converting/switching the living room with a bedroom. The Tenants also made reference

to their insomnia issues and their mobility issues, with particular mention made to DC's shoulder/arm mobility.

11. Based on the parties' submissions, I find that the Tenants did not meet the following conditions specified in the LTB Order: first, the Tenants accepted the carpet that the LTB Order required them to accept, but they did not use that carpet, as ordered to do; and second, the Tenants caused undue noise to occur in the midnight to 6:00 am morning hours of August 26, 28 and 30, 2024.
12. With these findings made, I also accept the Tenants' intentions to comply with the LTB Order, and their good faith intention to be able to continue under their existing tenancy. I also noted that the LTB Order left some ambiguity in the provisions ordered so that both parties interpreted the provisions for the LTB Order differently.
13. Based on the breaches and the circumstances presented by both parties, I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would not be unfair to grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act. Specifically, I informed the parties that I would restate the "order" section of the LTB Order so as to make the determinations in that order, that led to a conditional order to maintain the tenancy, more meaningful.

**It is ordered that:**

1. The tenancy between the Landlord and the Tenants is to be maintained intact but conditional upon the provisions being met below. To be clear, the determinations in the LTB Order (order LTB-L-051246-23 issued on May 1, 2024) remain exactly as set out therein, but the "It is ordered that" section is amended to set out the conditions more clearly.
2. The Tenants shall make available to the Landlord the carpet and underlay that the Landlord provided the Tenants in May 2024. On or before June 12, 2026, and after lawful advance notice to enter has been given to the Tenants, the Landlord's agents or contractors shall be allowed to enter the rental unit to lay down/install the carpet and underlay in the rental unit as originally had been intended. The Tenants shall not refuse, interfere or impede the Landlord's ability to enter into the rental unit to complete the carpet installation.
3. For the Landlord to complete the installation on or before June 12, 2026, the Tenants shall in advance of the Landlord's entry, move away and clear furniture and any other Tenant-items that may interfere or block the Landlord from accessing the area where the carpet and underlay are to be installed.
4. Effective immediately and for the duration of the tenancy, the Tenants shall not bring in or move out items of any description into or out from their rental unit between the night hours of 11:00 pm to 7:00 am daily, throughout each year. The only exception to this will be if the Landlord provides specific written permission for the Tenants to bring in or move out items between 11:00 pm and 7:00 am.

5. Effective immediately and for the duration of the tenancy, the Tenants shall use their best efforts to manage and eliminate undue noise inside the rental unit between the night hours of 11:00 pm to 7:00 am daily, throughout each year. To clarify this condition during night hours inside the rental unit, the Tenants: shall not move, drag or drop furniture or personal belongings of any size; shall not operate house appliances that make noise such as a vacuum cleaner or a food processor/mixer; shall not use tools of any type; and in general shall move about normally and as quietly as they can, keeping volume levels down to a reasonable level when they use their TV, telephone, computer or radio/stereo.
6. If the Tenants fail to comply with paragraphs 2, 3, 4 and/or 5 above, the Landlord may apply to the LTB pursuant to section 78 of the *Residential Tenancies Act, 2006* for an order terminating the tenancy and evicting the Tenants. The Landlord must make the application within 30 days of a breach of a condition. Such an application is made to the LTB without notice to the Tenants, and an order issuing from such an application is usually done without a hearing.

**May 19, 2026**  
**Date Issued**

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Alex Brkic  
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.