



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

File Number: LTB-L-026839-26-SA

In the matter of: 1108, 20 EMERALD ST N
HAMILTON ON L8L8A4

Between: Sons of Italy Housing Emerald Corp. c/o Landlord
DMS Property Management Ltd.

And

Parry Armstrong Tenants
Timothy McClemont

Sons of Italy Housing Emerald Corp. c/o DMS Property Management Ltd. (the 'Landlord') applied for an order to terminate the tenancy and evict Parry Armstrong and Timothy McClemont (the 'Tenants') and for an order to have the Tenants pay the rent they owe because the Tenants did not meet a condition specified in the order issued by the LTB on June 27, 2025 with respect to application LTB-L-024769-25.

The Landlord's application was resolved by order LTB-L-026839-26, issued on March 30, 2026. This order was issued without a hearing being held.

The Tenants filed a motion to set aside order LTB-L-026839-26.

This motion was heard by videoconference on May 25, 2026. The Landlord's representative Emily McGivern, and the Tenant Parry Armstrong, represented by Merima Menzildzic, attended the hearing.

Determinations:

1. On March 30, 2026, the Board issued order LTB-L-026839-26, terminating the tenancy on April 10, 2026, and allowing the Landlord to file the order with the Court Enforcement Office (Sheriff) starting on April 11, 2026.
2. The Landlord filed the order with the Court Enforcement Office, and on May 14, 2026, the Sheriff gave vacant possession of the rental unit to the Landlord.
3. On May 19, 2026, after the eviction order was enforced, the Tenants filed a set aside motion.

4. The Tenant's representative is seeking for the tenancy to be reinstated and for the Tenant to be put back into possession.
5. 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.
6. 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.
7. 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.
8. 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.
9. The Tenants' representative agrees there was no abuse of process and that the Landlord lawfully filed the order for enforcement and that the motion was filed after the order had been enforced.
10. After considering all of the circumstances, I find that it would be unfair to set aside order LTB-L-026839-26.

It is ordered that:

1. The motion to set aside Order LTB-L-026839-26, issued on March 30, 2026, is denied.
2. The stay of order LTB-L-026839-26 is lifted immediately.
3. Order LTB-L-026839-26 is unchanged.

May 29, 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.