



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

Citation: Chatham-Kent Housing Services v Najdzion, 2026 ONLTB 43553

Date: 2026-06-08

File Number: LTB-L-069341-25-SA-RV

In the matter of: 125, 287 Talbot St W
Blenheim ON N0P1A0

Between: Chatham-Kent Housing Services

Landlord

And

Joseph Najdzion

Tenant

Chatham-Kent Housing Services (the 'Landlord') applied for an order to terminate the tenancy and evict Joseph Najdzion (the 'Tenant') because the Tenant did not meet a condition specified in the order issued by the LTB on March 28, 2025 with respect to application LTB-L-089989-24.

The Landlord's application was resolved by order LTB-L-069341-25, issued on August 29, 2025. This order was issued without a hearing being held.

The Tenant filed a motion to set aside order LTB-L-069341-25. That motion to set aside was resolved by order LTB-L-069341-25-SA issued on October 20, 2025.

On October 22, 2025, the Tenant requested a review of the order and that the order be stayed until the request to review the order is resolved.

On October 23, 2025, interim order LTB-L-069341-25-SA-RV-IN was issued, staying the order issued on October 20, 2025

This request to review order LTB-L-069341-25-SA was heard by videoconference in parts on November 19, 2025, December 16, 2026, February 12, 2026 and March 30, 2026.

The Landlord's Agents, Geoff Beckett and Sherri Gray, and the Tenant attended the hearing on each hearing date.

The Landlord's Witness, Matthew Mallory ("Mr. Mallory") and the Tenant's Witness, Jessica Rossit ("Ms. Rossit"), attended the hearing on November 19, 2025, February 12, 2026 and March 30, 2026.

The Landlord's Witness, Nanette Hebert ("Ms. Hebert"), and the Tenant's Witness, Chris Cloutier ("Mr. Cloutier"), attended the hearing on February 12, 2026 and March 30, 2026.

The Tenant's Support Person, Julie Raymondo ("Ms. Raymondo"), attended the hearing on November 19, 2025, December 16, 2026, and March 30, 2026.

The Tenant's Support Person, Taylor Najdzion, attended the hearing on December 16, 2026.

The Tenant's Support Person, Chris Doiron, attended the hearing on March 30, 2026.

Ms. Raymondo was not able to attend the February 12, 2026 hearing date. The Tenant requested an adjournment on this basis, as he felt that without Ms. Raymondo present he would be unable to adequately proceed with the hearing. After hearing submissions from the parties, and despite the objection of the Landlord, I granted the Tenant's request for an adjournment peremptory on the Tenant to proceed on further dates. This adjournment was granted in accommodation for the Tenant's disability, and to ensure that a procedurally fair hearing could proceed.

On March 30, 2026, at the conclusion of the hearing of all evidence and the Landlord's submissions, the Tenant asked for a break prior to giving his final submissions. The Tenant was given an approximately 25-minute break prior to doing so. When the matter was recalled at 12:45 p.m. the Tenant requested that he conclude submissions by written submissions as Ms. Raymondo had a 1:00 p.m. appointment 20 minutes away and had to leave to attend it, and the Tenant wished further time to go over this matter and put submissions on paper.

This request was denied. The date was peremptory on the Tenant, the Tenant was given a lengthy break prior to giving his submissions to prepare to do so. I was not satisfied that written submissions were required to conclude a procedurally fair hearing of the issues, nor that doing so would be appropriate in these circumstances and in accordance with the Board's mandate to conduct expeditious proceedings in accordance with section 183 of the *Residential Tenancies Act*, 2006 (the "Act").

After denying the request I provided the Tenant with a summary of what I understood the Tenant's position to be and invited the Tenant's elaboration in order to assist the Tenant in assessing what information I needed to be presented with by way of submissions. The Tenant acknowledged that I had absorbed and articulated the majority of his position, and the Tenant's submissions proceeded on that basis.

Determinations:

Request to Review LTB-L-069341-25-SA

1. On the basis of the submissions made by the parties, I am satisfied that there was a serious error in the order or proceedings for the reasons below. On that basis the Tenant's request to review is granted.
2. Order LTB-L-069341-25-SA is an order that denies the Tenant's request to set aside order LTB-L-069341-25, an order which evicts the Tenant for a breach of the conditions in the previous consent order LTB-L-089989-24 not to damage or alter the Landlord's property or

equipment, and to keep their animal on a leash in the common areas of the residential complex. The breach specified related to the Tenant cutting down shrubs in the residential complex, removing a surveillance camera, and failing to keep his dog on leash in the residential complex.

3. The Tenant raised a number of issues he wished to raise in respect to the review of order LTB-L-069341-25-SA on the basis that he submits there were serious errors in the order or proceedings. The ground that warranted consideration in this respect was whether or not the order considered all of the circumstances of the Tenant pursuant to section 78(11)(b) of Act and whether the order provides sufficient reasons regarding the Tenant's circumstances both in this respect and in relation to the timing of the lifting of the stay of enforcement.
4. The only portion of the order that could be considered as consideration of circumstances under section 78(11)(b) of the Act is the following:

"9. The Tenant argues that other residents have their dogs off leash.

10. The Tenant has breached conditions set out in order LTB-L-089989-24 and based on the Tenant's testimony, I am not satisfied that if further conditions of relief were imposed on the Tenant to preserve this tenancy, that the Tenant will cease this kind of behaviour.

11. After considering all of the circumstances, I find that it would be unfair to set aside order LTB-L-069341-25."

5. Prior to the review hearing commencing, I listened to the recording of the hearing that resulted in order LTB-L-069341-25-SA. From that review I put to the parties and solicited their submissions in relation to the following:
 - a. The Tenant raised that an elderly tenant with mental health issues was freaked out and had a panic attack resulting in the events related to cutting down the shrubs. Should this have been addressed in the order, or was the adjudicator required to inquire further into these circumstances?
 - b. The Tenant brought up that he had a caseworker and was working very hard to treat his conditions. Did this trigger an obligation on the adjudicator to inquire as to whether there were any mental health issues at play in respect of the Tenant's actions?
 - c. I did not hear any invitation from the adjudicator for the Tenant to address his circumstances for consideration pursuant to section 78(11)(b). Was it a serious error not to give such an opportunity?
 - d. The hearing Member stated to the Tenant in the hearing that from the evidence they had reviewed the Tenant had cut down the shrubs, and asked the Tenant to confirm that. Did this trigger a reasonable expectation to the Tenant that the adjudicator had reviewed the evidence the Tenant filed, including the evidence the Tenant had filed in relation to mental health?

6. The Tenant submitted that there was no consideration of his mental health circumstances, and the role they played in relation to the breaches of conditions of order LTB-L-089989-24 at the hearing that resulted in order LTB-L-069341-25-SA. The Tenant submits that he was not permitted an opportunity to raise these circumstances, despite having submitted a letter from his therapist regarding his mental health.
7. The Landlord's position was the reference to a panic attack and mental health was more in respect of the neighbour's mental health than the Tenant's. The Landlord submits further that the act of cutting down the shrubs was not just an impulsive act related to the Tenant's mental health, but occurred over a period of two days. The Landlord submits that the adjudicator was aware of the Tenant's mental health circumstances and that they were adequately addressed in the order.
8. The standard required for the reasons in a decision made by an administrative tribunal was outlined by the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 (CanLII) ("Vavilov") which states at paragraphs 127 and 128 that:

" [127] The principles of justification and transparency require that an administrative decision maker's reasons meaningfully account for the central issues and concerns raised by the parties. The principle that the individual or individuals affected by a decision should have the opportunity to present their case fully and fairly underlies the duty of procedural fairness and is rooted in the right to be heard: Baker, at para. 28. The concept of responsive reasons is inherently bound up with this principle, because reasons are the primary mechanism by which decision makers demonstrate that they have actually listened to the parties.

[128] Reviewing courts cannot expect administrative decision makers to "respond to every argument or line of possible analysis" (Newfoundland Nurses, at para. 25), or to "make an explicit finding on each constituent element, however subordinate, leading to its final conclusion" (para. 16). To impose such expectations would have a paralyzing effect on the proper functioning of administrative bodies and would needlessly compromise important values such as efficiency and access to justice. However, a decision maker's failure to meaningfully grapple with key issues or central arguments raised by the parties may call into question whether the decision maker was actually alert and sensitive to the matter before it. In addition to assuring parties that their concerns have been heard, the process of drafting reasons with care and attention can alert the decision maker to inadvertent gaps and other flaws in its reasoning: Baker, at para. 39."

9. I find that there is a serious error in the order, specifically that there were insufficient reasons provided in relation to the Tenant's circumstances pursuant to section 78(11)(b) of the Act, and that a further assessment of these circumstances were required in accordance with the standards articulated in Vavilov.
10. The Landlord's position was the hearing Member was aware of the Tenant's mental health circumstances. I accept this based on the hearing record both noting the Tenant's reference to a caseworker and treatment, and the Member's statements in regard to having reviewed the evidence, which included evidence related to the Tenant's mental health. However, I find that this is addressed nowhere in order LTB-L-069341-25-SA. The

analysis under section 78(11)(b) is a requirement in relation to set aside motions. Components such as mental health are clearly relevant to this analysis and I find that where an adjudicator has been alerted to their presence, they are required to be addressed or acknowledged in some manner. Both parties agree that the adjudicator was aware that the Tenant deals with mental health issues.

11. I find that order LTB-L-069341-25-SA fails to provide a meaningful analysis on a central issue to the proceeding as required pursuant to Vavilov by failing to address mental health circumstances in respect of section 78(11)(b).
12. I find on the basis of the above that order LTB-L-069341-25-SA contains a serious error as it contains insufficient reasons. I therefore grant the Tenant's request to review order LTB-L-069341-25-SA.

De Novo Hearing of LTB-L-069341-25-SA

There was a breach of the previous order

13. The Tenant failed to meet a condition specified in the order issued by the LTB on March 28, 2025 with respect to application LTB-L-089989-24. The Tenant did not dispute that there was a breach of the order, but disputed its circumstances and whether it should result in the termination of the tenancy.
14. Specifically, the Tenant acknowledged having trimmed the shrubs and that his dog was off leash in the residential complex. The Tenant however disputed the extent to which the shrubs were trimmed, whether this occurred on one day or multiple days, and the circumstances respecting the dog being off leash.
15. While the Tenant also acknowledged he removed a surveillance camera, but later returned it, I note that the evidence as presented by the Landlord in the hearing established that the surveillance camera in question was the personal property of Ms. Hebert and not the property of the Landlord. It also was established that it had not been affixed and therefore the removal of it did not alter or destroy it. Therefore, I find this act did not constitute a breach of order LTB-L-089989-24.

The surrounding circumstances

16. After considering all of the circumstances, I find that it would not be unfair to set aside order LTB-L-069341-25.
17. The Tenant testified that he trimmed the shrubs after there had been a break-in, and that his neighbour, Marcy, was suffering panic attacks related to this. The Tenant testified that these panic attacks were being brought on in part as the neighbour could not see into the parking lot due to these shrubs and she felt unsafe. The Tenant also testified that in his view he did not cut down the shrubs, but was merely trimming the dead parts of the shrubs off of them.
18. The Tenant testified this occurred over the long weekend and Nanette Hebert, the employee of the Landlord that the Tenant had contact information for, was away for 3 or 4 days. The Tenant felt this was an urgent issue to address and could not wait for her return.

The Tenant testified he did not have contact information for other employees to inquire as to permission prior to proceeding with trimming the shrubs.

19. The Tenant disputed that he cut down shrubs on more than one date, and state that he could not have as his saw broke after the first date in which he was cutting shrubs.
20. Mr. Cloutier testified in support of the Tenant's version of events, stating that he helped the Tenant clean up the trimmings from the shrubs, but that as far as he was aware all of the cutting happened on one date. Mr. Cloutier testified that the Tenant's saw was broken at the end of cutting on the first date. Mr. Cloutier testified he is aware no further trimming happened after the first date as he was around the apartment of Ms. Rossit, and would have observed if there had been. Mr. Cloutier testified he helped the Tenant do some more cleaning of trimming already cut down on the day after the cutting occurred.
21. Mr. Cloutier testified that he thought this date occurred in November. I note the parties do not dispute that this incident occurred in July. Given that Mr. Cloutier's testimony was off by not just a short period of time, but an approximately 4 month period during which the weather would have been considerably different, I cannot find Mr. Cloutier's evidence to be particularly reliable. While Mr. Cloutier acknowledged he didn't have a real sense of the dates, given Mr. Cloutier's testimony contained an error of this magnitude, I cannot be confident that there are not other substantial errors in Mr. Cloutier's memory of these events. On that basis, I accord it little weight.
22. Mr. Mallory is an employee of the Landlord who is responsible for maintenance at the residential complex. He testified that he came to work July 29, 2026 after the weekend and noted there were shrubs that had been cut down but was unaware of who cut them down. Mr. Mallory testified he cleaned these up, but came in on July 30, 2026 and found some more things trimmed. On that date Mr. Mallory had a conversation with the Tenant in which the Tenant acknowledged he was the party who had cut the shrubs on one side of the parking lot. Mr. Mallory acknowledged there were other shrubs/trees cut in other areas and that this was not completed by the Tenant.
23. Mr. Mallory testified that he had to clean up the trimmings, as they were left there.
24. Mr. Mallory acknowledged that after talking to the Tenant on July 30th, the Tenant did not cut further amounts off as far as Mr. Mallory was aware and that someone else had been cutting down tree limbs in other areas of the residential complex. Mr. Mallory testified that the Tenant showed him how he was trimming them on that date, at which point Mr. Mallory told the Tenant to stop until it could be confirmed whether he was permitted to do so, and that the Tenant complied.
25. Mr. Mallory also confirmed that the Tenant had previously made landscaping changes in the common areas of the residential complex that he had not asked for permission for. There was no assertion from anyone that there was a response from the Landlord in relation to the Tenant's previous actions in this regard.
26. Ms. Hebert testified she heard a chainsaw sound on the evening of July 29, 2026 and came out to find the Tenant trimming shrubs. Ms. Hebert testified she talked to the Tenant and he then stopped trimming them. Ms. Hebert testified the Tenant told her on that date

that he was doing so as he had been robbed the night before in a break-in and needed to be able to see through to the parking lot.

27. I find that the Tenant did trim the shrubs over a period of two days on July 29, 2026 and July 30, 2026. I found both Ms. Hebert and Mr. Mallory credible in respect to their testimony and prefer their testimony to that over the Tenant in this regard. As noted, I give little weight to the testimony of Mr. Cloutier.
28. There was no indication that the Tenant was attempting to hide his actions or responsibility for trimming shrubs. This is clear from Mr. Mallory's testimony. It appears to me based on this that the Tenant did not have an understanding that doing so would present an issue or be considered a violation of the consent order he had entered into with the Landlord. Given the Tenant had previously done unauthorized landscaping in the residential complex without issue, and given other tenants were also trimming trees in and around the same time, this is to a certain degree understandable, though still a breach of the conditions the Tenant agreed to.
29. Ms. Hebert also testified that on August 12, 2026 the Tenant attended her rental unit, and the Tenant's dog was off leash in this area of the residential complex when he did so. Ms. Hebert testified that the night prior to the March 30, 2026 hearing the dog was seen off leash again in the parking lot of the residential complex.
30. The Tenant acknowledged that his dog did get out of the rental unit while he was doing laundry recently. The Tenant stated another party opened the door while he was out of the unit and the dog left the unit. The Tenant regrets this, and states this was entirely unintentional.
31. The Tenant testified that his disability involves issues with impulse control, and a difficulty standing by with matters seen as injustices. The Tenant testified that in part due to his disability he tends to act impulsively when he sees issues as an injustice to deal with matters in a manner that he finds to be efficient.
32. The Tenant testified he is in therapy, and has his substance abuse issues in check. The Tenant testified he has tried to surround himself with positive influences and isolate himself from negative influences and believes he is on the right track. The Tenant supplied a letter from his psychotherapist, Vicki Dennis, dated September 29, 2025, that states the Tenant is actively engaged in therapy and is working towards developing and implementing coping strategies for his anxiety and emotional regulation.
33. The Tenant acknowledged he had his dog off leash in the residential complex once or twice, but that it had not occurred frequently. The Tenant testified and provided evidence from his doctor that his dog is an emotional support animal that helps the Tenant manage his condition. The Tenant testified he was looking into obtaining training for the dog to become a service animal, but acknowledged that at this point there was nothing that prevented the dog from being leashed while accompanying the Tenant in its role as his emotional support animal.
34. The Tenant's sole source of income is ODSP, and he is reliant on the rental unit being subsidized. The Tenant has lived in the rental unit for 3 years and is 56 years old.

35. I note that the Landlord declined the opportunity to cross-examine the Tenant to challenge them on the main portion of his testimony presented on December 16, 2026 (and only cross-examined in relation to the re-call evidence discussed below).
36. Mr. Mallory also testified that the Tenant installed a latch on his unit door and a surveillance camera outside the unit facing public areas that the Tenant did not have permission to install. The Landlord took the position that this constitutes the Tenant continuing to alter the Landlord's property. Mr. Mallory confirmed in his testimony that the Tenant had been asked to remove these items.
37. I permitted the Tenant recall evidence to address these concerns as they were only raised in the March 30, 2026 hearing date and the Tenant had completed his evidence on a previous date.
38. The Tenant testified that the latch was installed in his rental unit shortly after his home invasion, and the camera was put up around the same period of time. The Tenant testified that he installed these items as he felt insecure following the home invasion in his rental unit.
39. The Tenant testified that he took the camera down from the dividing fence where it was originally installed when he was asked to remove it.
40. The Tenant states that he subsequently asked for an accommodation to feel more secure as his disability made him quite anxious following the home invasion and that building management gave permission to him to have a camera that was facing his property. The Tenant acknowledged the Landlord said it needed to be removed after it was installed as while the Landlord gave him permission to have one, it could not be affixed to the building. The Tenant testified that he originally refused to take the camera down after being asked to do so, but has now complied with the Landlord's direction to do so on the morning of March 30, 2026, the date of the hearing.
41. The Tenant testified that the latch was removed as soon as he was asked to do so by the Landlord.
42. It is clear from the Tenant's testimony that he has had trouble recognizing the amount of control he can and cannot exert over matters in the residential complex and the gravity of his dog being unleashed in the residential complex while the Tenant is subject to a conditional order stating that this is not to be the case. I find that the difficulty in recognizing these things is in part related to the Tenant's disability. I bare that in mind as I analyze whether it is appropriate to set this order aside.
43. The Act is remedial legislation and the courts have determined that evicting a tenant is a remedy of last resort. In the cases of *Sutherland v. Lamontagne*, [2008] O.J. No. 5763 (Div. Ct.) and *Paderewski Society v. Ficyk*, [1998], the Divisional Court stated,
- "To put somebody out of their home must, in my view, call for clear and compelling circumstances that it's no longer possible for the arrangement to continue."*

44. Notwithstanding the above, if I were not satisfied that the Tenant would comply with conditions as originally agreed, I would find it was unfair to the Landlord to set the eviction order aside.
45. I directly questioned the Tenant on this subject. The Tenant indicated he would and could comply with the conditions in the order on an ongoing basis if given a chance to. After some waffling on the subject about whether the Tenant might have done the same thing if circumstances presented themselves, the Tenant stated this initially in the hearing on December 16, 2025. More convincing was the testimony given in this regard in the March 30, 2026 hearing.
46. The Tenant was asked directly about the issues related to the dog remaining on leash and whether he understood that notwithstanding how he feels in relation to his security or any other subject that he is not permitted to make an alternation of any kind to the Landlord's property. I find after the answers to these questions, I am satisfied that the Tenant now understands the extent of his obligations pursuant to the conditions he has agreed to, and the risk to the Tenant's housing if he fails to do so.
47. I note particularly that the Tenant stated he was afraid to even put a thumbtack up in the rental unit at this point. In this respect, while this is an extreme example, I find it appears the Tenant has finally absorbed that the Landlord controls what is appropriate to affix to any part of the rental unit or residential complex, and that he must obtain permission to do so. I am satisfied that this understanding extends to including that this applies even if the Tenant may feel a situation is unfair or another tenant is being treated differently in this respect. I emphasized to the Tenant that despite any of this he must continue to comply with conditions, and after hearing from the Tenant, I believe that he now understands this.
48. I am also satisfied through the course of the hearing process and answers the Tenant provided that he will make efforts to ensure his dog does remain leashed in the residential complex. It is important for the Tenant to realize that he must make arrangements to ensure his dog does not get out again. If the Tenant is leaving the dog with other parties in the rental unit, the Tenant must ensure that the dog is secured or that the party left with the dog will otherwise take steps to ensure the dog does not get out. Consequences will fall on the Tenant if he fails to do so.
49. For the reasons outlined above, I find it appropriate and not unfair in the circumstances to set aside the ex-parte eviction order to give the Tenant one final opportunity to comply with the conditions imposed by LTB-L-089989-24. This should be viewed in part as an accommodation of the Tenant's disability, and in recognition that it contributed to the Tenant having difficulty processing and understanding the full extent of his obligations under that order.
50. The purpose of conditional orders with a period of time attaching to those conditions are to set a period of time during which tenants can establish appropriate habits to meet his responsibilities as a tenant. Here, given the breach of conditions, I find it is appropriate to extend the length of time the Tenant is required to meet the conditions of LTB-L-089989-24 in order to ensure that the Tenant is in a position to establish better habits and show the Landlord he can now act appropriately as a tenant of the residential complex. To instead allow the Tenant to violate the conditions of the previous order, and then permit those

conditions to expire would be unfair to the Landlord. Therefore, the conditions will be extended for a period of one year from the date of issuance of this order.

51. The Tenant should not take this opportunity lightly. If the Tenant violates these conditions further the Member at the next hearing date may well come to the conclusion that the Tenant has shown he cannot comply with his responsibilities as a tenant and that further relief is not appropriate.

It is ordered that:

1. The request to review order LTB-L-069341-25-SA issued on October 20, 2025 is granted.
2. Order LTB-L-069341-25-SA issued on October 20, 2025 is cancelled and replaced by paragraphs 3 to 6 of this order.
3. The motion to set aside Order LTB-L-069341-25, issued on August 29, 2025, is granted.
4. Order LTB-L-069341-25, issued on August 29, 2025, is set aside and cannot be enforced.
5. The previous order issued on March 28, 2025 with respect to LTB-L-089989-24 is amended by deleting paragraph 1 and of that order and replacing it with paragraph 6 of this order.
6. From June 8, 2026 to and including, June 8, 2027:
 - a. The Tenant shall not swear, yell, threaten, or behave aggressively towards other tenants of the residential complex or employees of the Landlord;
 - b. The Tenant shall not damage or alter the Landlord's property or equipment; and
 - c. The Tenant shall maintain control of their animal and keep their animal on a leash while in all common areas of the residential complex, including but not limited to, outdoor arears such as green spaces and parking lots.

June 8, 2026
Date Issued

Benjamin Seigel
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.