



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

File Number: LTB-L-090735-25-SA

In the matter of: Unit 202, 1102 BROADVIEW AVE
EAST YORK ON M4K2S4

Between: Abiona Centre Landlord

And

She'wayne Olivia Carter-Noel Tenant

Abiona Centre (the 'Landlord') applied for an order to terminate the tenancy and evict She'wayne Olivia Carter-Noel (the 'Tenant') because the Tenant entered into an agreement to terminate the tenancy.

The Landlord's application was resolved by order LTB-L-090735-25, issued on November 24, 2025. This order was issued without a hearing being held.

The Tenant filed a motion to set aside order LTB-L-090735-25.

This motion was heard by videoconference on December 18, 2025, and January 19, 2026.

The Tenant, the Landlord's Legal Representative Cassandra Fafalios, the Landlord's Agent Carly Krupnik, and the Landlord's Witness Wangari Muriuki attended the hearing.

Determinations:

1. It was undisputed that the parties signed an N11: Agreement to Terminate the Tenancy ('the N11') on November 1, 2024, the same day they signed the tenancy agreement.
2. Subsection 37(5) of the *Residential Tenancies Act* (2006) (the 'Act') states:

An agreement between a landlord and tenant to terminate a tenancy is void if it is entered into,

 - (a) at the time the tenancy agreement is entered into; or
 - (b) as a condition of entering into the tenancy agreement.
3. The Landlord's Representative stated that the Landlord is a care home but was unable to show that the tenancy was exempt from the Act. When asked if the Landlord intended to prove an exemption under subsections 5(k) of 5(l) of the Act, the Representative declined,

stating that the Landlord intended for the Act to apply. Later, the Representative submitted that the Landlord was exempt under section 5.1 of the Act. However, the Representative was unable to show that the agreement between the parties complies with paragraph 5.1(3)1.

4. On a balance of probabilities, I am not satisfied that the tenancy is exempt from the Act. Therefore, subsection 37(5) of the Act applies, making the N11 void. The Tenant's motion to set aside the eviction order is granted.

It is ordered that:

1. The motion to set aside Order LTB-L-090735-25, issued on November 24, 2025, is granted.
2. Order LTB-L-090735-25, issued on November 24, 2025, is set aside and cannot be enforced.

January 28, 2026

Date Issued

Kate Sinipostolova

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.