



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

File Number: LTB-L-109150-25-SA

In the matter of: 145 HENSHAW DR
ERIN ON N0B1T0

Between: JAY PATEL Landlords
MEGNA PATEL

And

SAMANTHA McCARTHY Tenants
CHAD MAGUIRE

JAY PATEL and MEGNA PATEL (the 'Landlords') applied for an order to terminate the tenancy and evict SAMANTHA McCARTHY and CHAD MAGUIRE (the 'Tenants') and for an order to have the Tenant pay the rent they owe because the Tenant did not meet a condition specified in the mediated settlement signed by the parties on November 7, 2025 with respect to application LTB-L-068920-25.

The Landlords' application was resolved by order LTB-L-109150-25, issued on January 9, 2026. This order was issued without a hearing being held.

The Tenants filed a motion to set aside order LTB-L-109150-25.

This motion was heard by videoconference on January 27, 2026.

The Landlords' legal representative, Shalini Puri, and the first-named Tenant, Samantha McCarthy (SM), attended the hearing. SM was authorized to appear on behalf of the second-named Tenant, Chad Maguire, who is SM's partner.

Determinations:

1. The Landlords filed an L1 application for non-payment of rent which was resolved by Bord facilitated mediation. The parties requested an order on consent the terms of which were formalized in order LTB-L-068920-25 issued on November 7, 2025.
2. The order provided that the Landlords could apply to the Board under section 78 of the Act without notice to the Tenants to terminate the tenancy and evict the Tenants if they failed to make the arrears payments or to pay new rent in full and on time as specified in the order.

The Breach of the Order

3. There is no dispute that the Tenants breached order LTB-L-068920-25 issued on November 7, 2025.
4. The Tenants failed to pay the lawful rent of \$3,200.00 on or before December 1, 2025. The Tenants also failed to pay \$1,500.00 towards the arrears on or before Dec 20, 2025.

The Tenant's Motion

5. This motion is brought pursuant to subsection 78(11) of the Act. As I am satisfied that the Tenants breached the order issued on November 7, 2025, the only issue before me is whether I am "satisfied, having regard to all the circumstances, that it would not be unfair to set aside the order".
6. The Tenant testified that she knew she would not be able to pay the full rent and arrears payments required for December. The Tenant stated she contacted the Housing Stability Program ('HSP') on November 26, 2025, to obtain assistance for the payments required in and was approved. The Tenant further testified that when the HSP worker reached out to the Landlord to arrange for payment in early December, the Landlord advised that they had already filed the L4 application which then disqualified the Tenant for the funding.
7. Because the HSP could no longer assist the Tenant and believing that the eviction was imminent, the Tenant stated she had to retain any money they had to try and secure new housing.
8. The Tenant submitted that the Landlord did not actually file the L4 until December 30, 2025, and had the HSP been given the proper information that the Landlord had not yet filed the application, HSP would have assisted the Tenant in completing the payment required for December and she would not have breached the order.
9. The Tenant testified that since the mediated agreement she has obtained a second job and that her husband is now back to work after having been laid off. The Tenant estimated the net combined total monthly household income to be approximately \$9,300.00. A detailed examination of the family's expenses including rent revealed an income surplus of approximately \$2,850.00 per month.
10. The Tenants have 4 children: a 16-year-old, 11-year old twins, and a 2-year old. One of the twins is on the autism spectrum and has various therapies in the area. The Tenants' daycare provider is also close to the rental unit. The rental unit is in a small town that does not have a lot of available rental properties. If the Tenants were evicted, they would have to leave the town which would mean losing access to services for their special needs child and their day care provider.
11. The Tenant testified they have filed for bankruptcy but do not intend to file against the Landlord if they are able to maintain the payment plan and retain their tenancy.
12. The Landlords' legal representative testified that Landlords are relying on rental income to pay the mortgage on this rental unit. This is the only rental unit the Landlords have, and they are experiencing financial hardship due to the arrears owing.

13. I have considered that the Tenant has 4 children in the rental unit, one of which has special needs. The Tenants are both currently employed, and one Tenant has obtained a second job to assist with paying the arrears. After a very close examination of the Tenants' monthly income and expenses, while it is clear the Tenants' finances are tight, I am satisfied that they are prioritizing their monthly rent and working hard to eliminate any other arrears. I take judicial notice that if the Tenants maintain a payment plan to pay the Landlords the arrears, that would be more financially beneficial to the Landlords rather than being included as a loss in the Tenants bankruptcy claim.
14. I also note that the Tenants acted responsibly to obtain financial assistance when they realized they were having financial trouble in December and would not meet the requirements of the mediated agreement. I accept that had the HSP worker been provided correct information with respect to the filing date of the Landlord's L4 application, the Tenants would have been supported to make the required payments and would not have breached the order.
15. Given all of the above, and after considering all of the circumstances, I find that it would not be unfair to set aside the eviction order and replace the original mediated agreement with a conditional order requiring the Tenants to pay the arrears and their monthly rent subject to the Landlord's right to file an application for eviction in the event of a breach. An order will issue accordingly.

It is ordered that:

1. The motion to set aside Order LTB-L-109150-25, issued on January 9, 2026, is granted.
2. Order LTB-L-109150-25, issued on January 9, 2026, is set aside and cannot be enforced.
3. Order LTB-L-068920-25, issued on November 7, 2025, is cancelled and replaced with the following order.
4. The Tenants shall pay to the Landlords \$17,586.00 for arrears of rent and costs to January 31, 2026.
5. The Tenants shall pay to the Landlord the amount set out in paragraph 4 of this order in accordance with the following schedule:
 - a) \$1,700.00 on or before the 20th day of each month, beginning February 20, 2026, up to and including November 2026.
 - b) \$586.00 on or before December 20, 2026.
6. The Tenants shall also pay the Landlords new rent in full on or before the first day of each month for the period commencing February 1, 2026, to December 31, 2026.
7. If the Tenants fail to make any one of the payments in accordance with this order, the outstanding balance of any arrears of rent and costs to be paid by the Tenants to the Landlords pursuant to paragraph 4 of this order shall become immediately due and owing and the Landlords may, without notice to the Tenants, apply to the Board pursuant to section 78 of the Act for an order terminating the tenancy and evicting the Tenants and

requiring that the Tenants pay any new arrears, NSF fees and related charges that became owing after January 31, 2026. The Landlord must make this application no later than 30 days after the Tenants' failure to make a payment.

February 6, 2026
Date Issued

Melissa Anjema
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.