



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

File Number: LTB-L-107115-25-SA

In the matter of: 37 GORDON ST
BRANTFORD ON N3S2N1

Between: Donna D'Mello Landlord
Keith D'Mello

And

Tonya June Breadner Tenant
Charles Duncan Fisher

Donna D'Mello and Keith D'Mello (the 'Landlord') applied for an order to terminate the tenancy and evict Tonya June Breadner and Charles Duncan Fisher (the 'Tenant') and for an order to have the Tenant pay the rent they owe because the Tenant did not meet a condition specified in the order issued by the LTB on December 19, 2025 with respect to application LTB-L-035129-25.

The Landlord's application was resolved by order LTB-L-107115-25, issued on January 8, 2026. This order was issued without a hearing being held.

The Tenant filed a motion to set aside order LTB-L-107115-25.

This motion was heard by videoconference on February 2, 2026.

The Landlords, the Landlords' representative G. Gosling and the Tenant Tonya June Breadner attended the hearing.

Determinations:

1. The Tenant's motion to set aside the eviction order was brought pursuant to subsection 78(11) of the *Residential Tenancies Act*, 2006 (the "Act")
2. The Board must first determine whether or not the Tenant breached order LTB-L-069909-25 issued on November 14, 2025 (the "Section 78 Order").
3. The Section 78 Order provided that the Landlord could apply to the Board under section 78 of the Act without notice to the Tenant to terminate the tenancy and evict the Tenant if the Tenant did not meet certain conditions specified in the order. If the Board finds that the Tenant did breach the Section 78 Order, then the Board must decide whether or not "in all

the circumstances” it would be “unfair to set aside” the eviction order. If the Board determines that it would not be unfair to set aside the eviction order then the Board is supposed to grant the motion and set aside the order. If the Board determines that it would be unfair to set aside the eviction order then the motion must be denied.

4. The Tenant Tonya June Breadner (The “Tenant TB”) admits to breaching the Section 78 Order. In particular, the Tenant TB admits to not paying the full required December 2025 monthly rent and the required \$396.40 arrears payment on or before December 1, 2025.
5. The next issue is whether or not “in all the circumstances” it would be “unfair to set aside” the eviction order.
6. The Tenant TB explained the breach occurred as a result of being in a financially precarious financial position due to not receiving anticipated funds from the Tenant Charles Duncan Fisher (The “Tenant CF”), whom the Tenant stated is no longer living at the rental unit. The Tenant TB resides at the rental unit with her 3 children and indicated in the future she will be better prepared financially to ensure there are no more breaches. The Tenant TB is working and that the total family income is \$3200/month. The total arrears as of the date of the hearing was \$1,585.40.
7. The Landlord requested that the motion be denied, primarily due to non-financial considerations. In this regard, the Landlord noted there has been disturbing conduct on the part of the Tenant CF. In particular, the Landlord stated the Tenant CF – who was not in attendance at the hearing – recently sent threatening and disturbing text messages to the Landlord resulting in safety concerns for the Landlord.
8. The Tenant TB responded she was unaware of the Tenant CF’s conduct (until shortly before the hearing) and the Tenant TB indicated the Tenant CF is no longer residing at the rental unit. I am certainly sympathetic to the Landlord’s concerns; however, I find the Tenant TB’s evidence believable that the Tenant CF is no longer residing at the rental unit and that finding affordable alternative housing for her family of 4 (her and her 3 children) could be challenging. Further, the Landlord’s underlying application resulting in the Section 78 Order is based on rent arrears/late payments and the arrears here are not significant. As I find the Tenant’s testimony regarding her willingness to pay back the arrears to be believable, I am satisfied that granting the Tenant’s motion and imposing a conditional order would be fair in the circumstances.

It is ordered that:

1. The motion to set aside Order LTB-L-107115-25, issued on January 8, 2026, is granted.
2. Order LTB-L-107115-25, issued on January 8, 2026, is set aside and cannot be enforced.
3. The previous order issued on December 19, 2025 with respect to LTB-L-035129-25 is cancelled and replaced with the following terms:
4. The Tenant shall pay to the Landlord \$1585.60 for arrears of rent up to February 28, 2026 and costs

5. The Tenant shall pay to the Landlord the amount set out in paragraph 4 in accordance with the following schedule:

-Between March 20, 2026 and June 20, 2026, the Tenant will make payments towards the arrears in the amount of \$396.40 each month. These arrears payments will be made on or before the 20th day of each month. This means that the Tenant will make payments of \$396.40 per month for 4 consecutive months, commencing March 20, 2026

6. The Tenant shall also pay to the Landlord new rent on time and in full as it comes due and owing for the period March 1, 2026 to June 30, 2026, or until the arrears are paid in full, whichever date is earliest.
7. If the Tenant fails to make any of the payments in accordance with this order, the outstanding balance of any arrears of rent and costs to be paid by the Tenant to the Landlord pursuant to paragraph 4 of this order shall become immediately due and owing and the Landlord may, without notice to the Tenant, apply to the LTB within 30 days of the Tenant's breach pursuant to section 78 of the Act for an order terminating the tenancy and evicting the Tenant and requiring that the Tenant pay any new arrears, NSF fees and related charges that became owing after February 28, 2026.

February 11, 2026
Date Issued

Peter Nicholson
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.