



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

Citation: Maple Hill Creek Apts Inc v Morrissey, 2026 ONLTB 15032

Date: 2026-02-18

File Number: LTB-L-001526-26-SA

In the matter of: 309, 274 Erb Street West
Waterloo ON N2L1W2

Between:	Maple Hill Creek Apts Inc	Landlord
	and	
	Suzanne Morrissey	Tenant

Maple Hill Creek Apts Inc (the 'Landlord') applied for an order to terminate the tenancy and evict Suzanne Morrissey (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 October 21, 2025 with respect to application LTB-L-062193-25.

The Landlord's application was resolved by order LTB-L-001526-26, issued on January 12, 2026. This order was issued without a hearing being held.

The Tenant filed a motion to set aside order LTB-L-001526-26.

This motion was heard by videoconference on February 11, 2026.

The Landlord's Agent, Sarah Mungal, the Tenant and the Tenant's Support, Andrew Morrissey, attended the hearing.

Determinations:

1. The previous order provided that the Landlord could apply to the Board under section 78 of the *Residential Tenancies Act, 2006* (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.
2. Pursuant to section 78(11) of the Act, the issues are as follows:
 1. Did the Tenant breach the mediated agreement? If the answer to that question is "NO"; then the motion must be granted and the eviction order set aside;
 2. If the Tenant did breach the mediated agreement, the issue becomes whether or not the Board is satisfied, having regard to all the circumstances, that it would not

be unfair to set aside the eviction order. If the Board determines that it would not be unfair to set aside the eviction order, the motion must be granted and the eviction order must be set aside. Pursuant to s.78(12), the Board may then amend the previous mediated agreement if it is deemed appropriate to do so;

3. If the Board is not satisfied that it would not be unfair to set aside the eviction order, then the Board must decide whether or not to delay lifting the stay of the eviction order.

Breach

3. There is no dispute that the Tenant did not pay \$355.00 towards the arrears on or before December 1, 2025. The Tenant conceded that she did not have the money to make the payment.

Set Aside

4. Pursuant to section 78(11)(b) of the Act, the Board may make an order setting aside the ex parte order issued if the Board is satisfied, having regard to all the circumstances, that it would not be unfair to set aside the order.
5. The Tenant testified that, with the assistance of family, she has now paid all rent owing to the Landlord up to February 28, 2026. The Landlord's Agent initially disputed this, stating that there was a balance of \$26.00 owing, she thereafter conceded that the remaining \$26.00 are NSF charges. The NSF charges are not claimed in the Landlord's application. Nevertheless, the Tenant's Support was sending payment for this amount to the Landlord during the hearing.
6. This is the first motion by the Tenant to set aside an eviction order for breach of the previous order. There is no dispute that there are no rent arrears owing to the date of the hearing. While the Landlord still sought termination as they feel the Tenant is not a good fit and states that any amount owing is a hardship on any landlord, the Landlord did not provide any evidence to suggest that the missed payment impacted their ability to maintain the building or otherwise had a detrimental impact on the business.
7. Having regard to all of the circumstances, and in balancing the prejudice to the Tenant against any potential prejudice to the Landlord, I find that it would not be unfair to set aside the ex parte order and provide the Tenant a final opportunity to continue her tenancy.

It is ordered that:

1. The motion to set aside Order LTB-L-001526-26, issued on January 12, 2026, is granted.
2. Order LTB-L-001526-26, issued on January 12, 2026, is set aside and cannot be enforced.
3. The previous order issued on October 21, 2025 with respect to LTB-L-062193-25 is spent.

February 18, 2026
Date Issued

Candace Aboussafy
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.