



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

File Number: LTB-L-005541-26-SA

In the matter of: 1203, 105 Oneida Cres
Richmond Hill ON L4B0H6

Between: Baytree Property Management Inc. Landlord

and

Negar Heidari Dolatabadi
Hamoon Hadian Tenants

Baytree Property Management Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Negar Heidari Dolatabadi and Hamoon Hadian (the 'Tenants') and for an order to have the Tenants pay the rent they owe because the Tenants did not meet a condition specified in the order issued by the LTB on July 16, 2025 with respect to application LTB-L-029396-25.

The Landlord's application was resolved by order LTB-L-005541-26, issued on January 26, 2026. This order was issued without a hearing being held.

The Tenants filed a motion to set aside order LTB-L-005541-26.

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

Only the Tenant's Legal Representative, Benjamin Hognestad, and the Tenant, Negar Heidari Dolatabadi ('ND'), attended the hearing.

As of 1:33pm, the Landlord was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Tenants' evidence.

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 Tenants to terminate the tenancy and evict the Tenants if the Tenants 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 Tenants 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 Tenants 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. The Tenants do not dispute that they failed to pay \$9,486.00 towards the arrears on or before December 31, 2025. ND testified that she did not realize that the amount would be over the daily limit set by her bank.

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. ND testified that the payment was only \$480.00 short, and she has since made that payment, as well as all her rent payments to date. She testified that she does not owe any rent arrears now for the period ending March 31, 2026 and, in fact, she actually overpaid by \$10.00 as of the hearing date.
6. This is the first motion by the Tenants to set aside an eviction order for breach of the previous order. The Landlord was not present at the hearing to provide any evidence or submissions with respect to any prejudice to the Landlord in allowing the tenancy to continue. Considering that the arrears have been paid in full and the Tenants are now up to date with all of their rent payments, I find that it would not be unfair to set aside the ex parte order and allow the tenancy to continue.

It is ordered that:

1. The motion to set aside Order LTB-L-005541-26, issued on January 26, 2026, is granted.
2. Order LTB-L-005541-26, issued on January 26, 2026, is set aside and cannot be enforced.
3. The previous order issued on July 16, 2025 with respect to LTB-L-029396-25 is spent.

March 9, 2026
Date Issued

Candace Aboussafy
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.