



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

Citation: Heath Residences v Collantes, 2026 ONLTB 19953

Date: 2026-03-10

File Number: LTB-L-005983-26-SA

In the matter of: G23, 325 Bogert Ave
North York ON M2N1L8

Between:	Heath Residences	Landlord
	and	
	Cherry Collantes Mark Emil Collantes Jean Matias	Tenants

Heath Residences (the 'Landlord') applied for an order to terminate the tenancy and evict Cherry Collantes, Mark Emil Collantes and Jean Matias (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 January 7, 2026 with respect to application LTB-L-081516-25.

The Landlord's application was resolved by order LTB-L-005983-26, 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-005983-26.

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

The Landlord's Legal Representative, Charlie Bobrowsky, and the Tenant, Cherry Collantes ('CH'), on behalf of all Tenants, 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 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. There is no dispute that the Tenants did not pay \$300.00 towards the arrears on or before January 20, 2026. CH conceded that they forgot to pay it.

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. CH testified that the Tenants have been struggling to make the payments because her husband is the only one working full time. She testified that she is only able to work once a week because she has to be home to care for their daughters. She testified that they did make the payment, it was just late because she forgot. She testified that February's payment was also late because they did not have the money to make the payment, but they did make the payment in full a few days after the deadline.
6. Considering all of the circumstances, I find that this is a situation where it would be unfair in all the circumstances to set aside the eviction order. I am not satisfied that the Tenants will abide by the payment plan. I say this because it was CH's own testimony that they won't and that they can pay their rent on time, but sometimes the additional payment towards the arrears will be late. She also testified that they have difficulties coming up with enough money to cover the rent. It would be unfair to grant the Tenants' motion because any reasonable repayment agreement will fail just as the previous one has.
7. The final issue before the Board is with respect to lifting of the stay.
8. The Tenants have lived in the rental unit for 6 years. The Tenants have two daughters, ages 3 and 7.
9. There is no doubt that the Tenants will have some difficulty finding alternative housing given their income is barely enough to cover the rent in this rental unit. Given that and taking into account any potential prejudice to the Landlord, it would not be unreasonable to delay lifting of the stay until April 30, 2026. Delaying eviction until September or October 2026 would be unduly prejudicial to the Landlord who has been waiting some time for repayment.

It is ordered that:

1. The motion to set aside Order LTB-L-005983-26, issued on January 26, 2026, is denied.
2. The stay of order LTB-L-005983-26 is lifted effective April 30, 2026.

March 10, 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.