



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

File Number: LTB-L-009540-26-SA

In the matter of: 369 MELROSE ST
CAMBRIDGE ON N3H4A8

Between: Blaine Miller Landlord

And

Nathan Hynes Tenants
Fionaleigh Greffel

Blaine Miller (the 'Landlord') applied for an order to terminate the tenancy and evict Nathan Hynes and Fionaleigh Greffel (the 'Tenants ') because the Tenants did not meet a condition specified in the mediated settlement signed by the parties on May 8, 2025 with respect to application LTB-L-096968-24.

The Landlord's application was resolved by order LTB-L-009540-26, issued on February 6, 2026. This order was issued without a hearing being held.

The Tenants filed a motion to set aside order LTB-L-009540-26.

This motion was heard by videoconference on March 10, 2026.

The Landlord's legal representative, Shaun Harvey, the Landlord's Agent, Raquel Blackwell, and the Tenants attended the hearing.

Determinations:

There was a breach of the previous mediated settlement

1. The Tenants failed to meet a condition specified in the mediated settlement signed by the parties on May 8, 2025 with respect to application LTB-L-096968-24:

The Tenants failed to pay the lawful monthly rent due by February 1, 2026. The Tenants also failed to pay \$300.00 toward rent arrears due on February 1, 2026.

The surrounding circumstances

2. Pursuant to subsection 78(11) of the *Residential Tenancies Act*, 2006 (the 'Act'), when there has been a breach of a mediated settlement under section 78, the next issue to determine is whether or not the Board is satisfied, having regard to all the circumstances, that it would not be unfair to set aside the order.
3. Therefore, the issue before the Board is whether it would not be unfair to set aside the order.
4. After considering all of the circumstances, I find that it would not be unfair to set aside order LTB-L-009540-26 for the following reasons.
5. The parties entered into a mediated agreement on May 8, 2025, where the Tenants agreed to pay off arrears of rent in regular instalments and also to pay the rent as it came due on time. The Tenants complied with the agreement until February 2026. At that time, the Tenants' CPP cheques were delayed in the mail due to a postal strike.
6. According to the Tenants, it would not be unfair to set aside the order because they were only day late, and the Landlord was aware of the late payment. The Tenants informed the Landlord that they would make the payment due on February 1, 2026, on February 2, 2026; however, the Landlord refused to accept the late payment and immediately filed this application on February 2, 2026.
7. The Tenants have been residing in the rental unit for six and a half years. One Tenant is in receipt of disability benefits. The Tenants also have an adult child with a disability. The Tenants submitted that they have sufficient income to adhere to the mediated agreement in the future. The Tenants now set up direct deposit to avoid future problems.
8. The Landlord's position was that it would be unfair to set aside the order because the Landlord was very generous in agreeing to a lengthy payment plan (77 months); and as such, expected strict adherence to it. According to the Landlord, it was reasonably foreseeable that the Tenants' cheques may be delayed in the mail due to the ongoing postal strike, and as such, this should not serve as an excuse for the Tenants' late payment.
9. In accordance with subsection 78(11) of the Act, I have considered all of the disclosed circumstances, and I am satisfied, that it would not be unfair to set aside the order. I say this because the consequence of the denial of the set aside on the Tenants would far outweigh any prejudice to the Landlord by granting it. Balancing the rights of both parties, I find that it would be patently unfair to evict the Tenants because of a one-day delay in payment. The prejudice to the Landlord by this one-day delay is minimal. Based on the evidence before me, the one-day delay of the February 2026 payment was the result of an ongoing postal strike which caused the delayed receipt of the Tenants' CPP payments, their source of income. Although it may have been reasonably foreseeable that the cheques would be delayed due to the postal strike, the test whether to set the order aside or not is not reasonable foreseeability, but fairness. As the Landlord provided no evidence of adverse consequences of the one-day delay of payment, and I am satisfied that the Tenants are able or willing to pay the arrears and the monthly rent as it comes due, I find that it would not be unfair to set the order aside.

It is ordered that:

1. The motion to set aside Order LTB-L-009540-26, issued on February 6, 2026, is granted.
2. Order LTB-L-009540-26, issued on February 6, 2026, is set aside and cannot be enforced.
3. The mediated settlement signed by the parties on May 8, 2025 with respect to LTB-L-096968-24 remains in effect.

April 24, 2026
Date Issued

Jana Rozehnal
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.