



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

Citation: Melfi v McIntyre, 2026 ONLTB 37110

Date: 2026-05-07

File Number: LTB-L-020737-26-SA

In the matter of: 112 Dennis Drive
Smithville ON L8E2K4

Between: Joseph Melfi Landlord

And

Whitney McIntyre Tenants
Jessey Page-Bryan

Joseph Melfi (the 'Landlord') applied for an order to terminate the tenancy and evict Whitney McIntyre and Jessey Page-Bryan (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 February 23, 2026 with respect to application LTB-L-075422-25.

The Landlord's application was resolved by order LTB-L-020737-26, issued on March 10, 2026. This order was issued without a hearing being held.

The Tenants filed a motion to set aside order LTB-L-020737-26.

This motion was heard by videoconference on May 5, 2026.

The Landlord and the Tenant, Whitney McIntyre, attended the hearing.

Determinations:

There was a breach of the previous order

1. There was no dispute that the Tenants failed to meet a condition specified in the order issued by the LTB on February 23, 2026, with respect to application LTB-L-075422-25, as the Tenants failed to pay March rent on or before March 1, 2026.

The surrounding circumstances

2. The Tenant, Whitney McIntyre ("WM"), testified that she misunderstood from the original hearing, and the order dated February 23, 2026, that she had to pay March 2026 rent on

time. WM testified that she thought she had to start making the arrears payments of \$300.00 as of March 20, 2026, and then her regular rent payments as of April 1, 2026. WM testified that she has made the two arrears payments since the February 23, 2026 order as well as her rent payments for April 2026 and May 2026.

3. WM testified that she is also getting additional rent assistance from a community resource in the amount of \$300.00 so she can increase her arrears payment to \$600.00 as of June 2026. WM was seeking a continued payment plan of arrears payments of \$600.00 toward arrears with rent on time on or before the 1st of each month.
4. WM testified that she is a single mother of 4 children, who are 16, 13, 9, and 5 years old and that she would have no where else to go if she was evicted. WM testified that she has been trying to get back on her feet and has no family to help her.
5. The Landlord testified that he is experiencing financial difficulties and was open to a payment plan and that is why he agreed to the original consent order. However, the Landlord did not believe the Tenants had the financial ability to continue making payments since the Tenants missed making March rent on time. The Landlord testified he has a line of credit that he is carrying and cannot afford to not have rent paid. The Landlord testified that the Tenants have been late with the arrears payments. However, I note that the application was filed based only on the missed March 1, 2026, rent payment.
6. After considering all of the circumstances, I find that it would not be unfair to set aside order LTB-L-020737-26.
7. The Act is remedial in nature. In *Matthews v. Algoma Timberlakes Corp.*, 2010 ONCA 468 (CanLII), [2010] O.J. No. 2710 (C.A.) ("*Matthews*"), the Court of Appeal for Ontario ruled, at paragraph 22: "Given the remedial nature of the Act, its provisions must be interpreted liberally to ensure the realization of its objectives." At paragraph 32, the Court of Appeal concluded: "The purpose of the legislation is to provide protection to Tenants."
8. The Court of Appeal for Ontario's reasons in *Matthews* are consistent with earlier decisions by the Court, and by the Divisional Court, that the purpose of Act is to promote security of tenure.
9. Therefore, terminating a tenancy and evicting a Tenants from a rental unit is a remedy of last resort.
10. Here, I am satisfied that the breach was due to WM's misunderstanding of the order. The Tenants have demonstrated an ability and willingness to pay both the arrears and ongoing rent as demonstrated by the payment of the arrears payments that have come due as well as April 2026 and May 2026 rent. Furthermore, WM has even offered to increase her arrears payments to accelerate the time in which the arrears will be paid off.
11. I accept the WM's evidence regarding her ability to pay the ongoing rent and adhere to her proposed payment plan. While I accept that the arrears have had an impact on the Landlord, I am not satisfied based on the evidence provided that the Landlord is experiencing financial hardship such that it would be unfair to grant relief. In my view, it would not be unfair to set aside the ex-parte order to allow the Tenants an opportunity to preserve the tenancy.

12. I do note that the Landlord indicated that the Tenants may have been late with the arrears payments, however the Landlord's application was based on a breach of missing only March 2026 rent. Furthermore, the Landlord will continue to have the availability of section 78 of the *Residential Tenancies Act*, 2006 (the 'Act') should there be further breaches in the future.
13. I also note that the Landlord's application incorrectly noted the arrears amount from the original order as \$15,910.00. The February 23, 2026, order determined arrears to February 28, 2026, were \$15,091.00. The parties agreed that the arrears owing to May 31, 2026, were therefore \$16,621.00, inclusive of filing fee, calculated as follows \$15,091 (arrears to February 28, 2026) – \$600.00 (arrears payments from Tenants) + \$2,130.00 (March 2026 rent) = \$16,621.00.

It is ordered that:

1. The motion to set aside Order LTB-L-020737-26, issued on March 10, 2026, is granted.
2. Order LTB-L-020737-26, issued on March 10, 2026, is set aside and cannot be enforced.
3. The previous order issued on February 23, 2026, with respect to LTB-L-075422-25 is amended and replaced as follows:
4. The Tenants shall pay to the Landlord \$16,621.00 for arrears of rent up to May 31, 2026, inclusive of the filing fee.
5. The Tenants shall pay to the Landlord the amount set out above in paragraph 4 in accordance with the following schedule:

Payment Date	Payment Amount
May 30, 2026	\$300.00
June 30, 2026	\$600.00
July 30, 2026	\$600.00
August 30, 2026	\$600.00
September 30, 2026	\$600.00
October 30, 2026	\$600.00
November 30, 2026	\$600.00
December 30, 2026	\$600.00
January 30, 2027	\$600.00
February 28, 2027	\$600.00
March 30, 2027	\$600.00
April 30, 2027	\$600.00
May 30, 2027	\$600.00
June 30, 2027	\$600.00
July 30, 2027	\$600.00
August 30, 2027	\$600.00
September 30, 2027	\$600.00
October 30, 2027	\$600.00
November 30, 2027	\$600.00
December 30, 2027	\$600.00

January 30, 2028	\$600.00
February 29, 2028	\$600.00
March 30, 2028	\$600.00
April 30, 2028	\$600.00
May 30, 2028	\$600.00
June 30, 2028	\$600.00
July 30, 2028	\$600.00
August 30, 2028	\$600.00
September 30, 2028	\$121.00

6. The Tenants shall also pay to the Landlord new rent on time and in full as it comes due and owing for the period of June 1, 2026, to September 1, 2028, or until the arrears are paid in full, whichever date is earliest.
7. If the Tenants fails to make any one of the payments in accordance with this order, the outstanding balance of any arrears of rent and costs to be paid by the Tenants to the Landlord pursuant to paragraph 4 of this order shall become immediately due and owing and the Landlord may, without notice to the Tenants, apply to the LTB within 30 days of the Tenants' breach pursuant to section 78 of the Act for an order terminating the tenancy and evicting the Tenants and requiring that the Tenants pays any new arrears, NSF fees and related charges that became owing after May 31, 2026.

May 7, 2026
Date Issued

 Nicole Pedron
 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.