

**SUPERIOR COURT OF JUSTICE – ONTARIO
DIVISIONAL COURT**

RE: MILAGROS TAHA, AHMED ESSAM TAHA and SHARIF TAHA, Appellants /
Moving Parties (Tenants)

AND:

EQUITABLE BANK, Respondent / Responding Party (Landlord)

BEFORE: McWatt ACJ.

COUNSEL: *Kush Gupta*, for the Appellants / Moving Parties (Tenants)

Martin Zarnett (Equitable Bank), for the Respondent / Responding Party
(Landlord)

HEARD: in writing

ENDORSEMENT AND CORRIGENDUM

*Motion to Extend Time to Seek Leave to Appeal, for Leave to Appeal, and to Stay Enforcement
Pending Appeal*

[1] On the basis of the materials filed and, in particular, the Affidavits of **ALTAZ HUDDA**, this Court orders: (a) an extension of time to seek leave to appeal and to commence the appeal, nunc pro tunc; (b) leave to appeal is granted; (c) a stay of the Order and all enforcement of it, including the Sheriff's eviction, pending the disposition of the motion for leave to appeal.

[2] No costs are ordered as the motion was not opposed.

Faye E. McWatt ACJ.

Released: August 26, 2026

CORRIGENDUM

Released: August 27, 2026

Since the Covid 19 Pandemic, the Superior Court of Ontario has gone through tremendous change and has moved from paper filing to an entire digitization of its operations.

This case is an example of the confusion that has resulted in filing materials before the Divisional Court.

I issued the attached decision on August 26, 2026. I did not have the materials of the Respondent, Equitable Bank, when I considered the application. In fact, I wrongly wrote that the motion was unopposed. It was not. Equitable Bank had filed its opposition to the motion with this court, but the material was not before me when I made my decision. It was no fault of Equitable Bank, but part of the confusion caused by modernization. It would be erroneous of me to ignore their submissions now. Especially so where those submissions have been filed on time and have changed my decision on this matter.

After having reviewed all the evidence, I realized that my previous decision cannot stand. Therefore, for the reasons set out below, taken directly from the Respondent's materials and with which I agree, **the Motion for leave to appeal is dismissed and the Motion for an extension of time to file a notice of appeal should be dismissed with costs.**

[1] The Respondent is a landlord as defined by the Residential Tenancies Act, 2006, S.O. 2006, c. 17 ("RTA"). The Respondent is the Mortgagor and landlord of the rental unit at 133 Wynford Drive, Unit 1106, Toronto, Ontario, M3C0J5 (the "Rental Unit").

[2] The owner of the Rental Unit is Altaz Hudda (the "Owner"). The Owner is in default of the Mortgage registered against the Rental Unit and the Respondent served a Notice of Attornment of Rents on the Appellants on June 24, 2025 after serving a Notice of Sale Under Mortgage on May 7, 2025. The Appellants acknowledged receipt of the Notice of Attornment.

[3] As a result of the Appellants failing to pay the rent to the Respondent, the Respondent served a Form N4 on the Appellants on October 30, 2025. As the Appellants failed to void the Form N4, on November 28, 2025, the Respondents filed an L1 Application with the Landlord and Tenant Board (the "Board"). The Board set a hearing date for February 26, 2026 for the hearing of the L1 Application with respect to the Respondent's claim against the Appellants for eviction and judgment for the arrears of rent. The Appellants acknowledged receipt of the Form N4 and the other documents in relation to their participation in the hearing and the hearing process.

[4] Even after receipt of the Notice of Attornment, the Form N4, the L1 Application and the Consent Order, the Appellants continued to pay rent to the Owner and not the Respondent. It is submitted by the Respondent, and I agree, that there is a fundamental conflict in the Owner funding the appeal on the basis that the Owner's self-serving communications with the Appellants that they continue to pay rent to the Owner has put the Appellants in legal jeopardy and is inconsistent that the Owner fund this proposed appeal on the basis that the Appellants have a potential cause of action against the Owner.

[5] At the hearing before the Board on February 26, 2026, both parties were represented by licensees licensed by the Law Society of Ontario. The Respondents were represented by Mr. Lekhi who advised that he was a paralegal representing the Appellants. The consent was presented to the Board after discussions and negotiations between the Appellants and the Respondent. In exchange for the consent, which was an order terminating the tenancy, the Respondent waived rent totaling \$31,500.00 plus the filing fee of \$186.00 for a total amount waived of \$31,686.00. The consent was an informed consent as the parties were represented by licensees licensed by the Law Society of Ontario. The Appellants' paralegal has not sworn an affidavit in support of the Motion. There is no evidence in the record regarding the advice that Mr. Lekhi gave to the Appellants prior to the consent being entered into at the Board. The Appellants have not waived privilege in this case, nor have the Appellants provided any evidence as to the advice that the Appellants received prior to the entering into the consent which resulted in the Consent Order.

[6] The Appellants did not seek a review of the Consent Order from the Board. The Respondent is suffering ongoing prejudice because of the ongoing default in the payment of rent. But for the Consent Order, the amount of arrears due and owing to the Respondent by the Appellants would be \$42,000 to June 30, 2026.

[7] The Board issued the Consent Order on February 27, 2026, and the Consent Order reflected the consent of the parties on February 26, 2026 even with a small typographical error and even though there does not appear to have been a recording of the hearing by the Board.

[8] The Owner has also sworn an affidavit in support of this Motion. The Owner's actions are self-serving. He acknowledges that he has not paid the mortgage which has been in default since on or about January 1, 2025. The Owner advised or convinced the Appellants to continue to pay rent to him even though rent always should have been paid to the Respondent.

[9] No action has been commenced against the Owner with respect to the default of the Mortgage relating to the Rental Unit. The Owner is in default of a different mortgage relating to the property in King City.

[10] There is no document in these proceedings that is defective. The Form N4 is not defective. Based on the agreement regarding the rent in the Consent Order and based on the acknowledgement by the Appellants that the rent is currently \$3,500.00 per month in this appeal, the Form N4 was and is proper and the determination of the rent and arrears of rent is also properly stated.

[11] At no time was there any intention to appeal the Consent Order within the appeal period which is 30 days from February 27, 2026 when the Board gave the Consent Order to the parties. The first time there was any intention to appeal was on June 5, 2026 or by the Appellant's own affidavit on June 1, 2026, well beyond the 30-day period set out in the RTA. There is no reasonable explanation why there was a delay in filing a Notice of Appeal.

[12] This appeal is a statutory appeal which is limited to questions of law. There is nothing in the Notice of Appeal that rises to a question of law. There is no error of law in the Consent Order. The Appellants never had any intention to appeal the Consent Order. It appears that leave to appeal the Consent Order is being sought is because of the involvement of the Owner who has financially benefited from advising or convincing the Appellants to pay rent to the Owner even though the Appellants should have paid rent to the Respondent and the Appellants received a notice to vacate from the Sheriff.

[13] There are no reasons why leave to appeal the Consent Order should be granted in the circumstances of this case.

[14] The Appellants will not suffer irreparable harm. There are numerous rental units in a soft rental market in Toronto. There is no serious error to be tried. This is a case where the Appellants acknowledge that they owed rent to the Respondent and the Respondent waived the rent due and owing in exchange for an agreement to terminate the tenancy. The balance of convenience having regard to the totality of the circumstances favours the Respondent and the dismissal of the Motion. The proposed appeal lacks merit.

[15] The Appellants shall pay costs of this motion in the amount of \$3,000.00.