



Order under Section 69 Residential Tenancies Act, 2006

Citation: TERRA v ASHLEY, 2026 ONLTB 767

Date: 2026-01-08

File Number: LTB-L-049607-25

In the matter of: 1194 WIGLE AVE
WINDSOR ON N9C3N1

Between: ADRIANA TERRA Landlord

And

JEREMY ASHLEY Tenant

ADRIANA TERRA (the 'Landlord') applied for an order to terminate the tenancy and evict JEREMY ASHLEY (the 'Tenant') because:

- the Tenant did not pay the rent that the Tenant owes.
- the Tenant has been persistently late in paying the Tenant's rent
- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant;

ADRIANA TERRA (the 'Landlord') also applied for an order requiring JEREMY ASHLEY (the 'Tenant') to pay the Landlord's reasonable out-of-pocket expenses that are the result of the Tenant's failure to pay utility costs they were required to pay under the terms of the tenancy agreement.

This application was heard by videoconference on November 18, 2025.

The Landlord, The Landlord's Legal Representative Elaine Ungaro and the Tenant attended the hearing.

Determinations:

L1 Application – Non-payment of rent:

1. The Landlord served the Tenant with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). The Tenant did not void the notice by paying the amount of rent arrears owing by the termination date in the N4 Notice or before the date the application was filed.

2. As of the hearing date, the Tenant was still in possession of the rental unit.
3. The lawful rent is \$1,600.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$52.60. This amount is calculated as follows: \$1,600.00 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to November 30, 2025 are \$12,200.00.

L2 Application

Persistent failure to pay rent on date it was due

7. On May 29, 2025 the Landlord gave the Tenant an N8 notice of termination which indicated a termination date of July 31, 2025. The notice of termination states that the Tenant has persistently paid rent late 8 of the last ten months from August, 2024 to May, 2025 and rent was unpaid for the remaining 2 months in that period. Rent is due on the 1st of each month. At the hearing the Landlord confirmed the dates of payments in the N8 Notice were correct.
8. The Landlord advised that since the filing of the application no rent payment has been received by the Landlord for July, August, September, October and November 2025 as of the date of this hearing.
9. The Tenant did not dispute that rent was either paid late or not paid during this period.
10. On the basis of the uncontested evidence before me, I find that the Tenant has persistently failed to pay the rent on the date that it was due.

Substantial Interference

11. On May 26, 2025 the Landlord gave the Tenant a first, voidable N5 notice of termination deemed served on May 26, 2025 with a termination date of June 16, 2025.
12. The Landlord also subsequently served a second N5 notice of termination on the Tenant on June 9, 2025.
13. Section 68 of the *Residential Tenancies Act, 2006* (the 'Act') states:

A Landlord may give a tenant notice of termination of the tenancy if,

- (a) A notice of termination was given to the tenant under section 62, 64 or 67; and
- (b) More than seven days but less than six months after the notice mentioned in clause (a) was given to the tenant, an activity takes places, conduct occurs or a situation arises that constitutes grounds for a notice of termination under section 60, 61, 62, 64 or 67, other than an activity, conduct or situation that is described in subsection 61(1) and that involves an illegal act, trade, business or occupation described in clause 61(2) (a). [Emphasis Added]

14. The Landlord's second N5 notice alleges the same conduct activity or situation as the first N5 as such the second N5 is invalid. However the Landlord's L2 application was filed on June 16, 2025 within 30 days of the termination date of the Landlord's first N5 notice of termination pursuant to section 69(2) of the Act. The Landlord is entitled to proceed on the first N5 notice.
15. The first N5 notice of termination alleges that the Tenant has failed to transfer the Enbridge Gas account into their name for the rental property pursuant to the lease agreement, which has resulted in the Landlord incurring cost of \$830.00, which has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord.
16. The Landlord submitted invoices received from Enbridge for gas services from September 4, 2024 through Mar 24, 2025 in the amount of \$819.50.
17. The Landlord testified that those invoices were paid and sent to the Tenant, but the Tenant has not reimbursed the Landlord for those costs.
18. The Tenant does not dispute that he is responsible for the payment of gas (Enbridge) invoices and has since transferred the account into his name.
19. Based on the uncontested evidence I am satisfied that the non-payment of the Enbridge invoices has resulted in a substantial interference with the reasonable enjoyment or lawful right, privilege or interest of the Landlord.

Compensation

20. The Tenant failed to pay heating costs (Enbridge invoices) that they were required to pay under the terms of the tenancy agreement.
21. As indicated above the Landlord has incurred reasonable out-of-pocket expenses of \$819.50 as a result of the Tenant's failure to pay the heating costs for the rental unit.
22. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
23. The Landlord collected a rent deposit of \$1,600.00 from the Tenant and this deposit is still being held by the Landlord. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.
24. Interest on the rent deposit, in the amount of \$51.51 is owing to the Tenant for the period from August 6, 2024 to November 18, 2025.

Section 83 Considerations

No Mandatory Denial of Eviction

25. Section 83(3)(a) of the Act provides the Board shall refuse to grant an application where satisfied the landlord is in serious breach of their responsibilities under this Act or of any material covenant in the tenancy agreement.
26. What is required is a serious breach of the landlord's responsibilities. In addition, given the use of the present tense in s. 83(3)(a), the Landlord's breach must also be ongoing at the time of the hearing.
27. The Tenant provided testimony with respect to alleged maintenance issues at the rental unit including mold, drafty windows and doors, water seepage into the basement and pour drainage of water from the kitchen sink.
28. With respect to maintenance and/or repairs issues this is not established simply by a rental unit being in poor condition and/or in need of extensive repairs – a contextual approach must be applied. [see *Puterbaugh v. Canada Public Works and Government Services*, [2007] O.J. No. 747 at paras 21-22, 27-28]
29. Given the Tenant's evidence that he continues to reside in the rental unit notwithstanding his concerns. The property is habitable despite being in need of some repair, even were I to find that the Landlord is in breach of their obligations relating to these issues under the Act – issues on which I make no determinations - I do not find the evidence sufficient to support finding that any such breaches would rise to the level of serious required to mandate a denial of eviction.

Relief from Eviction

30. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
31. The Tenant does not wish to maintain the tenancy but seeks a delayed eviction until the end of January, 2025.
32. He has resided in the rental unit since June 2024 and resides in the rental unit with his two children ages 8 and 10.
33. He further testified that he can't afford to pay the arrears owing and that his only source of income is \$1,300.00 that he receives as a Child Tax Credit. Ontario Works also pays a portion of his rent directly to the Landlord.
34. The Landlord seeks termination of the tenancy based on their N8 notice for persistently late payment of rent..
35. Given all of the evidence and submissions before me, the Tenant has made no proposal to pay the rental arrears, has not paid rent to the Landlords in quite some time, and when rent was paid it was persistently late. In addition the Tenant does not wish to maintain the

tenancy. This tenancy, in my view, is just not viable any longer and to prolong it would be prejudicial to the Landlord and unfair to the Tenant.

It is ordered that:

1. Pursuant to the L2 application, the tenancy between the Landlord and the Tenant is terminated on January 19, 2026 . The Tenant must move out of the rental unit on or before January 19, 2026.
2. The Tenant shall pay to the Landlord the amount of \$10,900.79. This amount includes rent arrears owing up to the date of the hearing, unpaid utilities and the cost of filing the application. The rent deposit and interest the Landlord owes on the rent deposit are deducted from the amount owing by the Tenant. See Schedule 1 for the calculation of the amount owing.
3. The Tenant shall also pay the Landlord compensation of \$52.60 per day for the use of the unit starting November 19, 2025 until the date the Tenant moves out of the unit.
4. If the Tenant does not pay the Landlord the full amount owing on or before January 19, 2026, the Tenant will start to owe interest. This will be simple interest calculated from January 20, 2026 at 4.00% annually on the balance outstanding.
5. If the unit is not vacated on or before January 19, 2026, then starting January 20, 2026, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
6. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord on or after January 20, 2026.

January 8, 2026
Date Issued

Sean Ramage
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.

In accordance with section 81 of the Act, the part of this order relating to the eviction expires on July 20, 2026 if the order has not been filed on or before this date with the Court Enforcement Office (Sheriff) that has territorial jurisdiction where the rental unit is located.

Schedule 1
SUMMARY OF CALCULATIONS

A. Amount the Tenant must pay - the tenancy is terminated

Rent Owing To Hearing Date	\$11,546.80
Application Filing Fee	\$186.00
Unpaid Utilities owing to the Landlord	\$819.50
Less the amount of the last month's rent deposit	- \$1,600.00
Less the amount of the interest on the last month's rent deposit	- \$51.51
Total amount owing to the Landlord	\$10,900.79
Plus daily compensation owing for each day of occupation starting November 19, 2025	\$52.60 (per day)
**Ongoing daily compensation continues to accumulate until the total amount owing (excluding costs) is \$50,000.00.	