



Order under Section 69 Residential Tenancies Act, 2006

Citation: Campbell v Stone, 2026 ONLTB 791

Date: 2026-01-07

File Number: LTB-L-085395-25

In the matter of: 46 FINCH AVE
WOODSTOCK ON N4T1T3

Between: Carol Campbell Landlord

And

Michelle Durand Tenants

Carol Campbell (the 'Landlord') applied for an order to terminate the tenancy and evict Diane Stone and Michelle Durand (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

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

The Landlord and the Tenant, Michelle Durand, attended the hearing.

Preliminary:

One of the Tenants not in possession

1. The Landlord stated that the Tenant Diane Stone, sent an email to the Landlord's realtor on June 30, 2025. The email stated the Tenant's wished to terminate the tenancy and vacate the rental unit on or before September 1, 2025.
2. The Landlord stated she accepted the Tenant's notice. The Landlord attended the rental unit on September 4, 2025 expecting the rental unit to be vacant however Michelle Durand remained in the rental unit.
3. Michelle Durand had told the Landlord that Diane Stone had left the keys to the rental unit, vacated on September 1, 2025 and had found new housing. Michelle informed the Landlord she was unable to find new housing and remained in the rental unit.
4. The Landlord served the remaining Tenant, Michelle with an N4 notice for nonpayment of rent and filed the application with the Board on September 29, 2025.

The Act and Analysis

5. A landlord may apply to the Board for an order for the payment of arrears of rent in accordance with section 87(1) if,
 - (a) the tenant has not paid rent lawfully required under the tenancy agreement; and
 - (b) the tenant is in possession of the rental unit.**[emphasis added]
6. On the date this application was filed, subsection 87(1)(b) of the Act permitted a landlord to apply for an order for the payment of arrears of rent if the tenant is in possession of the rental unit. The effect of this section is that if the tenant is not in possession of the rental unit on the date the application is filed, the Board does not have jurisdiction to issue an order requiring the tenant to pay the arrears of rent.
7. The leading case with respect to the meaning of the word “possession” in subsection 87(1) is *1162994 Ontario Inc. v. Bakker, Crane, Klemos & Holmes, [2004] O.J. No. 2565 (Ont. C.A.)*. In Bakker, the landlord applied to the Board’s predecessor, the Ontario Rental Housing Tribunal, for an order for arrears of rent and termination of the tenancy of the four tenants who signed the lease. At the time the landlord applied to the Tribunal three of the original tenants had moved out, leaving only one of the original tenants living in the rental unit. Only the remaining tenant was ordered to pay the arrears of rent.
8. The Court found that in order for a tenant to be in possession for the purposes of subsection 87(1) of the Act there must be a sufficient connection between the tenant and the rental unit. It stated that: “...possession of a rental unit refers to some form of control over that unit as demonstrated by factors such as access to, use of, or occupation of the rental unit.”
9. With the totality of the evidence and submissions before me and on a balance of probabilities I find the Tenant Diane Stone was not in possession of the rental unit at the time the Landlord filed the application with the Board.
10. Both the Landlord and the Tenant agree that Diane Stone vacated the rental unit in accordance with the notice she provided by email on June 30, 2025.
11. I am satisfied with the Landlord’s testimony that she accepted Diane Stone’s email to terminate the tenancy by agreement and that she was not in possession when the Landlord filed the application on September 29, 2025.
12. Given the above, the application will be amended to remove Diane Stone as a name Tenant and is reflected in this order.

Determinations:

13. The Landlord served the Tenants with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). The Tenants 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.
14. As of the hearing date, the Tenant was still in possession of the rental unit.
15. The lawful rent is \$2,600.00. It is due on the 1st day of each month.
16. Based on the Monthly rent, the daily rent/compensation is \$85.48. This amount is calculated as follows: $\$2,600.00 \times 12$, divided by 365 days.
17. The Tenant has not made any payments since the application was filed.
18. The rent arrears owing to December 31, 2025, are \$10,400.00.
19. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.
20. There is no last month's rent deposit.
21. The position of the Landlord is she cannot afford to allow the Tenant to reside in the rental unit without paying rent.
22. The Landlord is a small Landlord and is not employed and relies on the rental unit as income. The Landlord stated she has had to max out the line of credit to pay the mortgage on the rental unit and cover costs.
23. The Landlord is seeking a standard order for eviction.
24. The Tenant does not dispute the arrears the Landlord is claiming.

Relief from eviction

25. The Tenant was previously employed as a project administrator and went on short term disability sometime in December 2024. The Tenant was scheduled to go back to work on April 14, 2025, however her doctor ordered her to be put on long term disability starting July 2025.
26. The Tenant made submissions that she was forced to go on long term disability due to conditions in the rental unit caused by a flood in the basement.
27. The Tenant led with insufficient evidence to support her claim and the Tenant did not provide the Board or the Landlord with proper notice to raise section 82 issues at the hearing.
28. The Tenant stated that the flood in the basement was addressed by the Landlord and is not within my consideration for relief of eviction under section 83(3)(a) and the Tenant did not raise any other maintenance issues.

29. The Tenant stated that she received back pay for her long term disability (LTD) in the amount of \$9,300.00 the week before the hearing. The Tenant currently receives \$2,035.00 per month as ongoing income from LTD.
30. The Tenant stated she had been looking for new housing since the email notice was sent to the Landlord's realtor on June 30, 2025 but the Tenant claims she has been unable to find housing.
31. The Tenant led with insufficient evidence to support her claim she has been looking for new housing since June 1, 2025 and did not provide details of how many ads she has applied to, or how many contacts with potential landlords she has made.
32. The Tenant's current income is less than the lawful monthly rent and the Tenant stated she used the \$9,900.00 back pay on other bills she had and does not have any of the money left to pay the Landlord.
33. The Tenant requested an extended order of eviction to February 28, 2026 and stated she is unable to make rent payments for January 2026 and February 2026 should she be granted her request for the extended date of February 28, 2026.
34. The termination of a tenancy is a remedy of last resort and relief should be granted where the tenancy can be saved without overly prejudicing a landlord's interests. In this case, based on the evidence and submissions before me I find the tenancy is not viable.
35. In my view the Landlord would be prejudiced with an extended order for eviction given the quantum of the arrears owing and the fact the Tenant is unable or unwilling to pay the Landlord rent for January 2026 and February 2026 to prevent incurring further arrears.
36. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including whether the Landlord attempted to negotiate a repayment agreement with the Tenants and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
37. Although this order does not specifically address each piece of evidence individually or reference all the testimony, I have considered all of the evidence presented at the hearing and all of the oral testimony when making my determinations.
38. This order contains all reasons for the determinations and order made. No further reasons will be issued.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.
2. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$13,201.00 if the payment is made on or before January 18, 2026. See Schedule 1 for the calculation of the amount owing.

3. The Tenant may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenant has paid the full amount owing as ordered plus any additional rent that became due after January 18, 2026, but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenants may only make this motion once during the tenancy.
4. **If the Tenant does not pay the amount required to void this order the Tenants must move out of the rental unit on or before January 18, 2026.**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$9,539.64. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlord compensation of \$85.48 per day for the use of the unit starting December 19, 2025, until the date the Tenants move out of the unit.
7. If the Tenant does not pay the Landlord the full amount owing on or before January 18, 2026, the Tenant will start to owe interest. This will be simple interest calculated from January 19, 2026, at 4.00% annually on the balance outstanding.
8. If the unit is not vacated on or before January 18, 2026, then starting January 19, 2026, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
9. 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 19, 2026.

January 7, 2026

Date Issued

Greg Brocanier

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 19, 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 Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before January 18, 2026

Rent Owing to January 31, 2026	\$13,000.00
Application Filing Fee	\$201.00
Total the Tenants must pay to continue the tenancy	\$13,201.00

B. Amount the Tenants must pay if the tenancy is terminated

Rent Owing to Hearing Date	\$9,338.64
Application Filing Fee	\$201.00
Total amount owing to the Landlord	\$9,539.64
Plus, daily compensation owing for each day of occupation starting December 19, 2025	\$85.48 (per day)
**Ongoing daily compensation continues to accumulate until the total amount owing (excluding costs) is \$50,000.00.	