



Order under Section 87 / 89 Residential Tenancies Act, 2006

Citation: Bozzo v Miguel, 2026 ONLTB 2486

Date: 2026-01-05

File Number: LTB-L-003574-25

In the matter of: 152 MONTEREY RD
WOODBIDGE ON L4H1V6

Between: Antonietta Bozzo Landlord

And

Paul Busato Former Tenant
Warren Busato
Michelle Miguel

Antonietta Bozzo (the 'Landlord') applied for an order requiring Michelle Miguel, Paul Busato, and Warren Busato (the 'Former Tenant') to pay the rent and daily compensation that the Former Tenant owes.

Antonietta Bozzo (the 'Landlord') applied for an order requiring Michelle Miguel, Paul Busato, and Warren Busato (the 'Former Tenant') to pay the Landlord's reasonable out-of-pocket costs that the Landlord incurred or will incur to repair or replace undue damage to property. The damage was caused wilfully or negligently by the Former Tenant, another occupant of the rental unit or someone the Former Tenant permitted in the residential complex.

The Landlord also claimed charges related to NSF cheques.

This application was heard by videoconference on July 28, 2025.

The Landlord's legal representative, Mark Ciobotaru, the Landlord, and the Former Tenant, Michelle Miguel and Warren Busato, attended the hearing.

Determinations:

1. As explained below, the Landlord did not prove all the allegations contained in the application on a balance of probabilities.
2. I am satisfied that the Landlord served the Former Tenants with the application and Notice of Hearing at least 30 days before the hearing in accordance with Rule 3.3 of the LTB's Rules of Procedure.

3. These documents were served on April 3, 2025, by mail to the Former Tenants' current residential address.
4. The Former Tenants vacated the rental unit on April 30, 2024.
5. The application was filed on February 28, 2025, which is within one year after the Former Tenants ceased to be in possession of the rental unit, as required by section 89(1) of the Act.

Rent and daily compensation owing

6. The lawful rent was \$3,843.75. It was due on the 1st day of each month.
7. The Former Tenant testified that on March 18, 2024 they gave the Landlord a written N9 notice of termination stating that the tenancy would end on April 30, 2024. A copy of the completed N9 form dated March 18, 2024 was filed in evidence. The Landlord did not dispute receiving this notice but argued that it did not give sufficient notice.
8. Sections 44 and 47 of the Act allow a tenant to terminate a monthly tenancy at the end of a period of the tenancy by giving the landlord at least 60 days' notice. The termination date must be the last day of a rental period.
9. The Former Tenants' N9 notice gave only 44 days' notice of termination (from March 18 to April 30, 2024). As such, it does not comply with sections 44 and 47 of the Act. Regardless of the reason why less notice was given, the 60-day requirement is a strict statutory requirement.
10. The Landlord did not consent in writing to shorten the notice period or to treat the tenancy as ending on April 30, 2024. Because the Former Tenants' notice was not in compliance with the Act and there was no agreement to terminate effective April 30, 2024, I must turn to section 88 of the Act to determine the amount of rent, if any, owing after the Former Tenants vacated.
11. Section 88(1) of the Act sets out how arrears are to be calculated when a tenant vacates a rental unit without giving a notice of termination in accordance with the Act and there is no agreement to terminate. In particular, section 88(1) provides that where a tenant vacated the rental unit after giving a notice that was not in accordance with the Act, arrears of rent are owing for the period that ends on the earliest termination date that could have been specified in the notice had it been given in accordance with section 47.
12. In this case, the tenancy was a monthly tenancy running from the first to the last day of each month. The Former Tenants delivered their notice of termination on March 18, 2024. To comply with the Act, the notice would have had to specify a termination date that was (a) the last day of a month and (b) at least 60 days after March 18, 2024. The earliest termination date that could therefore have been properly listed on a compliant notice was May 31, 2024.

13. If section 88(1) were applied without further adjustment, arrears could, in principle, be calculated up to May 31, 2024, even though the Former Tenants actually vacated on April 30, 2024.
14. Section 88(4) of the Act requires the Board to consider whether the landlord took reasonable steps to mitigate their losses when determining the amount of arrears owing.
15. The Landlord testified that they believed there was a smoke odour in the unit and, for that reason, they “decided to wait until the Tenants vacated” before attempting to re-rent the unit. The Landlord stated that a few potential showings were declined by the Tenant.
16. No advertisements for the rental unit, records of listing the unit for rent, or evidence of efforts to secure a replacement tenant were filed. The Landlord did not provide details about when they first attempted to re-rent the unit after April 30, 2024, whether they received any inquiries or applications, or why the unit could not be re-rented earlier.
17. In these circumstances, I am not persuaded that the Landlord took reasonable steps to mitigate their loss after receiving the Tenants’ notice of termination. The Landlord chose not to explore re-renting the unit while the Tenants were still in occupation, and there is very limited evidence of any concrete steps taken immediately after April 30, 2024.
18. Given the lack of evidence of mitigation, I find that it would not be reasonable to require the Former Tenants to compensate the Landlord for rent beyond the date they actually vacated. Consistent with section 88(4), I therefore limit any potential arrears to the period ending April 30, 2024, the date the Former Tenants said they would vacate and in fact vacated the unit.
19. The rent arrears and daily compensation owing to April 30, 2024 are \$3,843.75.
20. The Landlord also seeks reimbursement for bank NSF charges associated with a returned rent cheque. The Landlord filed a bank document showing that the Former Tenant’s cheque for \$3,843.75 was returned for “Insuff Funds” on April 3, 2024 and that the “Fee Total” charged to the Landlord was \$7.00.
21. Section 87(5) of the Act permits the Board, on an application for money owing, to include NSF cheque charges actually charged by financial institutions and not yet reimbursed by the tenant. The \$7.00 fee shown on the Landlord’s bank record is a modest but real out-of-pocket expense flowing directly from the Former Tenants’ NSF cheque.
22. I therefore find that the Former Tenants are liable to pay the Landlord \$7.00 for the NSF bank fee pursuant to section 87(5) of the Act. No administration charge has been claimed in addition to this amount.
23. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

Compensation for damage

24. In Reason 4 of the L10, the Landlord claims a total of \$1,737.63 in compensation for alleged undue damage to the rental unit under section 89 of the Act. In the application and at the hearing, the Landlord explained that this total consists of plumbing costs of \$844.95 for two service calls, a further \$412.68 for replacement of the toilet itself and \$480.00 for a deep cleaning of the unit said to be required because the Tenants allegedly smoked heavily inside the rental unit. The Landlord acknowledged that the Former Tenants paid \$300.00 directly to the plumber at the time of the work.
25. The Former Tenants testified that the toilet had been draining poorly from within the first two months of the tenancy and that they reported this to the Landlord. They filed an unredacted copy of the plumber's invoice together with photographs of the obstruction that was removed from the toilet, which the Landlord described in the L10 as a dog bone. They maintained that the plumbing problem was not caused by them or anyone in their household and that any contribution they made toward the plumber's charges was a good-faith gesture rather than an admission of responsibility.
26. The Landlord did not call the plumber as a witness or file any expert opinion attributing the obstruction to misuse by the Former Tenants. The invoices describe the work completed and the amounts charged but do not state that the blockage was tenant-caused or that it was inconsistent with a longer-standing or structural plumbing issue.
27. Having considered all of the evidence, I am not persuaded that the Landlord has shown, on a balance of probabilities, that the blockage and the resulting plumbing and toilet-replacement costs were caused wilfully or negligently by the Former Tenants or by a person they permitted into the rental unit. The evidence is equally consistent with a maintenance issue for which the Landlord remains responsible under section 20 of the Act.
28. With respect to the claimed \$480.00 cleaning charge, the Landlord maintains that the Former Tenants smoked heavily in the unit and that a deep clean was required to address odours. The Former Tenants denied that anyone smoked inside the unit. Ms. Miguel explained that a close family member has COPD and that their three young children lived in the home, so indoor smoking would not have been acceptable. The Former Tenants provided photographs and video taken at move-out which show a generally clean unit without visible staining or residue typically associated with indoor smoking. They also testified that the Landlords lived in the basement during the tenancy and visited the unit regularly without ever raising a concern about smoke.
29. The Landlord did not provide photographs of staining or residue, nor any independent report from a cleaner or contractor confirming the presence of smoke damage. The cleaning invoice alone establishes only that the Landlord chose to have cleaning performed after the tenancy ended; it does not prove that this work was required because of tenant-caused damage rather than as ordinary turnover cleaning between tenancies.
30. In these circumstances, I find that the Landlord has not proven that the Former Tenants wilfully or negligently caused undue damage within the meaning of section 89 of the Act.
31. The Landlord's damage claim under section 89 is therefore dismissed.

32. The Landlord collected a rent deposit of \$3,750.00 from the Former Tenant and this deposit is still being held by the Landlord. The amount of the rent deposit and interest on the rent deposit is applied to the amount the Tenant is required to pay.
33. Interest on the rent deposit, in the amount of \$145.89 is owing to the Former Tenant for the period from October 11, 2022, to April 30, 2024

It is ordered that:

1. The Former Tenant shall pay to the Landlord \$3,843.75, which represents rent and compensation owing up to April 30, 2024.
2. Then Former Tenant shall also pay the Landlord \$7.00 for bank charges and related administration charges for 1 cheque given by or on behalf of the Former Tenant which was returned NSF
3. The Former Tenant shall pay to the Landlord \$186.00 for the cost of filing the application.
4. The Landlord owes \$3,895.89 which is the amount of the rent deposit and interest on the rent deposit, and this is deducted from the amount owing by the Former Tenant.
5. The total amount the Former Tenant owes the Landlord is \$140.86.
6. If the Former Tenant does not pay the Landlord the full amount owing on or before January 16, 2026, the Former Tenant will start to owe interest. This will be simple interest calculated from January 17, 2026 at 4.00% annually on the balance outstanding.

January 5, 2026
Date Issued

Colin Elsby
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.