



Order under Section 69 Residential Tenancies Act, 2006

File Number: LTB-L-034236-25

In the matter of: 610 WOODWARD AVE
HAMILTON ON L8H6P1

Between: MARTA BRHANE Landlord
TEKLESENBET WOLDEGERGISH

And

CASSIDY KAARTO Tenant
JAMES KIRK

The term “Landlord” refers to all persons or companies identified as a Landlord and “Tenant” refers to all persons identified as a Tenant, within the order.

MARTA BRHANE and TEKLESENBET WOLDEGERGISH (the 'Landlord') applied for an order to terminate the tenancy and evict CASSIDY KAARTO and JAMES KIRK (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on November 7, 2025.

The Landlord and the Tenant attended the hearing. The Landlord was represented by Kristina Jennings.

Determinations:

1. For the reasons that follow the tenancy between the Landlord and the Tenant is terminated unless the Tenant pays \$21,254.16 to the Landlord on or before January 31, 2026 to void the order.

Procedural History

2. The parties first appeared before the Board on July 16, 2025 where I heard the Landlord's evidence with respect to their application and began to hear the Tenant's section 82 claims before adjourning the matter due to insufficient time in the hearing block.
3. The parties then appeared before me on November 7, 2025 where I continued to hear the Tenant's claims and the Landlord's response to the Tenant's claims under section 82.

4. I directed the parties to make written submissions to the Board no later than November 28, 2025. As of the date of this order, I confirm receipt and have considered these submissions.

L1 APPLICATION

Preliminary Issue: Service of N4

5. The N4 that serves the basis of this application was served to the Tenant by mail on April 7, 2025 and had a termination date of April 25, 2025. Pursuant to subsection 191(3), a notice given by mail is deemed to have been given on the fifth day after mailing – in this case, that would be April 12, 2025.
6. So, on its face, it appeared that the N4 was short-served by one day.
7. The Landlord submitted that the N4 was mailed via registered mail and delivered to the Tenant on April 9, 2025. A copy of the delivery confirmation was submitted to the Board in support of this assertion¹.
8. As the Tenant did not dispute receiving the N4, and the evidence before me confirms the N4 was delivered to the Tenant two days after it was mailed, pursuant to subsection 191(2), I find the N4 has been validly served to the Tenant in accordance with the Act.
9. I proceeded to hear the merits of the L1 application.

Arrears Application

10. 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.
11. As of the hearing date, the Tenant was still in possession of the rental unit.
12. The lawful rent is \$2,500.00. It is due on the 1st day of each month.
13. Based on the Monthly rent, the daily rent/compensation is \$82.19. This amount is calculated as follows: \$2,500.00 x 12, divided by 365 days.
14. The Tenant has paid \$3,750.00 into the LTB since the application was filed.
15. The rent arrears owing to November 30, 2025 are \$16,250.00.
16. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
17. The Landlord seeks a standard, voidable eleven-day order.

Section 82 Claims

¹ DOC 5504123

18. The Tenant raised the following claims pursuant to section 82 of the Act: the stove and oven were not working; the Landlord attempted to rent the basement even though it was included in the lease agreement; the Landlord assaulted the Tenant; the Landlord attempted to claim the gas bill which was included in the lease; the Landlord attended the property to inspect and locked up items; the Landlord refused to leave the basement; the Landlord refused to give the Tenant a key to the side door and the Landlord continued to store items in the basement.
19. The Tenant's claims were raised on July 9, 2025; pursuant to subsection 29(2) of the *Residential Tenancies Act, 2006* and the principles found at paragraph 9 of *Toronto Community Housing Corporation v. Allan Vlahovich*, 2010 ONSC 1686, the limitation period cannot extend beyond July 9, 2024 with respect to any remedy.
20. The Tenant describes the house with three bedrooms and a basement with a recreational room and laundry.

The Stove

21. The Tenant testified that the stove and oven were out of commission in February 2025, which resulted in her having to rely on take-out food and purchase an air fryer and microwave to sustain meals for her family. The Tenant submits that while a new stove was purchased on March 8, 2025, six weeks after the issue was reported, the Landlord bought a second-hand stove mid-way. The Tenant submits the Landlord made no efforts to offer the Tenant alternatives to provide home-made meals for her family and that it was difficult with her child with special needs.
22. Text messages were also presented in support of this issue beginning February 7, 2025 where the Tenant advises the Landlord that the stove and oven are not working and that the oven door is broken. The Landlord responds indicating that he would come and take a look and a week later, he advises he plans to replace the stove. Four days later, the Tenant's message indicates "I can only do so much on the stove top...." I take this to mean the second-hand appliance was provided by February 19, 2025 which had a malfunctioning oven.
23. The Tenant seeks compensation in the amount of \$4,200.00 for the out-of-pocket expenses incurred as a result of the non-functional appliance and presented two Costco bills as well as a bank statement showing purchases made at restaurants, food delivery orders through door dash, Walmart and No-Frills charges.
24. The Landlord disputes that the stove was not working; he submits the oven door did not lock properly which is why he replaced it. The Landlord believes he replaced the appliance one week after the photos were sent to him.
25. The jurisprudence addressing section 20 of the Act holds that in determining whether the Landlord has breached its obligations the Board should consider whether the Landlord responded reasonably in the circumstances (*Onyskiw v. CJM Property Management Ltd.*, 2016 ONCA 477). If a landlord does not complete necessary repairs in a timely and effective manner, then an abatement of rent may be awarded.

26. Based on the evidence before the Board, I find the Landlord became aware of the stove issue on February 7, 2025 and responded in a timely manner by attending the property shortly after it was reported and replacing the stove 12 days later with a working stove.
27. Was the Landlord's response effective? I find the evidence suggests it was not. I say this because while the replacement stovetop worked, the oven was still non-functional. This was eventually rectified by the replacement stove provided to the Tenant by March 8, 2025.
28. With respect to the Tenant's request for her out-of-pocket expenses, I find the evidence is insufficient to establish this amount. The period in question runs between February 19, 2025 (after the appliance was replaced) and March 8, 2025. During this period the out of pocket expenses include: \$33.31 at Little Caesar's; \$158.94 at Walmart, \$58.10 at DoorDash, \$90.43 at DoorDash, \$28.67 at DoorDash; other expenses on the statements are either undated or do not fall within this period. Among these expenses, it is unclear what items were obtained at Walmart that related to the non-functioning oven. Similarly the charge of \$28.67 at DoorDash (which appears to be from 7-11) does not specify how it relates to a non-functioning oven. So I find the Tenant is entitled to \$181.84 and this amount is awarded to the Tenant which shall be reduced from the rent arrears.

Assault

29. The Tenant alleges on March 29, 2025, the Landlord assaulted the Tenant, by pushing her out of the way so that he could take photos of the male Tenant smoking. The Tenant submits police were called and attended the premises. A copy of the police report was submitted into evidence².
30. The Landlord denies touching the Tenant but confirms attending the rental unit that day to connect the laundry drain.
31. Based on the evidence before the Board, I find it is insufficient to establish that the Landlord assaulted the Tenant that day. I say this because two diametrically opposed claims are being made about the relevant facts. The Tenant says the Landlord pushed her; the Landlord says he did not. Without corroborating evidence like that from someone else there is simply insufficient evidence to establish that an assault took place. As a result, I find that the Tenant has failed to meet its burden of proof and this claim must be dismissed. I do note the police report indicates the Landlord pushed past the Tenant and not pushed the Tenant, suggesting that the Landlord's version of events is more accurate.

Gas Bill

32. The Tenant testified that although the gas utility was included in the lease agreement, the Landlord sent the Tenant a copy of the gas bill on February 26, 2025³ seeking payment. When the Tenant advised the Landlord and sent a copy of the lease agreement, the Landlord responded asking whether they wanted to pay for the heat system.

²DOC 6098908

³ 5970067 p14/27

33. The Landlord submits that inadvertently, the lease agreement stipulates that gas is included in the rent but the following page makes it clear that the Tenant is responsible for the heat.
34. In reviewing the lease agreement, there appears to be two conflicting sections under paragraph 6.

35. The Divisional Court in *Conroy v Jalaie*, 2010 ONSC 3626, has said that ambiguities in the lease are interpreted in favour of the party who did not draft document. The court's logic is found at paragraph 19 which states:

It is an established principle in our common law that ambiguities in a contract that affect the substantial rights and obligations of a party will be construed in favour of the party who did not draft the document. This general principle of construing ambiguities in a document against its drafter reflects the notion of comparative responsibility. Because the drafter could have avoided the ambiguous language, of the two parties, the drafter should bear the adverse construction: *Chilton v. Co-operators General Insurance Co.* (1997), 1997 CanLII 765 (ON CA), 32 O.R. (3d) 161 (Ont.C.A.).

36. Therefore, keeping this principle and the binding case in mind as well as the lease agreement that was submitted, I find the gas utility was not the Tenant's responsibility, but the Landlord's. However, as there was no previous determination of this issue, and the Landlord's interpretation of the lease could also have been reasonable, I do not find his message to the Tenant on February 26 2025 constitutes harassment or substantial interference and this claim must be dismissed.

Basement-Related Incidents

37. The remainder of the incidents relate to the basement which I find not to be part of the rental unit and therefore must be dismissed. I say this because while the lease agreement fails to stipulate the rental unit as the main floor unit, I am satisfied, pursuant to section 202

of the Act, that the parties entered into a lease agreement for the 3-bedroom, 1-bathroom upper level unit.

38. In reviewing the listing for the rental unit, the correspondence after the tenancy began where the Tenant confirms no one was in the basement unit (two days after the lease started) using the bathroom, and the Tenant's request for the basement unit listing (a month after the lease began) it is clear that the basement unit is not part of the lease.
39. Thus, the allegations that the Landlord accesses the basement unit, stores his belongings there, attempted to rent out the basement, refused to leave the basement and refused to provide the side door key that gives access to the basement must all be dismissed as I find the basement did not form part of the rental unit, had its own separate entrance and did not encroach on the Tenant's ability to access their unit.
40. The Tenant is entitled to a rebate of \$181.84. This amount will be deducted from the amount owing to the Landlord.

Interim order compliance

41. On July 18, 2025, interim order LTB-L-034236-25-IN was issued requiring the Tenant to pay the ongoing rent to the LTB commencing August 2025 until the resolution of this matter.
42. The evidence before me confirms the Tenant paid the rent for August 2025 and only half of September 2025. The balance for October and November remain outstanding as of the hearing date.
43. The Tenant explains that in September 2025, their dog passed away so they incurred unexpected expenses and could not come up with the remainder of the rent for September 2025. In October 2025, the Tenant CK, began treatment and was off-work, which reduced their household income. I note no documentation was submitted in support of these assertions.
44. Section 195(4) outlines the consequences of failing to comply with the interim order and states:

If a respondent is required to pay a specified sum into the Board within a specified time under clause (1)(a) and fails to do so, the Board may refuse to consider the evidence and submissions of the respondent.

45. Given the reasons for the Tenant's inability to comply appear to be uncontradicted and reasonable, I continued to hear the Tenant's claims at the hearing on November 7, 2025.

Relief from Eviction

46. The Tenant seeks to remain in the rental unit and proposes a repayment plan that would commence in December 2025 but was unable to commit to a specific amount. The Tenant submits they live in the rental unit with their four children ages 4, 5, 7, 9 and have seasonal

work. They do not wish to move again and rely on their Child Tax Benefit as their sole source of income.

47. Repayment plans are granted to allow a tenant to catch up on the arrears while continuing to pay their monthly rent. In reviewing the Tenant's circumstances and the lack of a specific repayment plan, it appears that a repayment plan would be unrealistic and put them in further financial distress. Therefore, I do not find the circumstances warrant this.
48. However, given the Tenant's personal circumstances, family size, and the quantum of arrears owed, I find a short delay is warranted to January 31, 2026.
49. The Landlord collected a rent deposit of \$2,500.00 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.
50. Interest on the rent deposit, in the amount of \$47.95 is owing to the Tenant for the period from February 1, 2025 to November 7, 2025.
51. 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 Tenant and find that it would not be unfair to postpone the eviction until January 31, 2026 pursuant to subsection 83(1)(b) of the Act.
52. This order contains all of the reasons for the decision within it. No further reasons shall 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:**
 - \$16,254.16 if the payment is made on or before November 30, 2025; **or**
 - \$18,754.16 if the payment is made on or before on or before December 31, 2025; **or**
 - \$21, 254.16 if the payment is made on or before January 31, 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 31, 2026 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.
4. **If the Tenant does not pay the amount required to void this order the Tenant must move out of the rental unit on or before January 31, 2026.**

5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$11,554.54. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. The rent deposit and interest the Landlord owes on the rent deposit and the rent rebate awarded to the Tenant are deducted from the amount owing by the Tenant. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlord compensation of \$82.19 per day for the use of the unit starting November 8, 2025 until the date the Tenant moves out of the unit.
7. If the Tenant does not pay the Landlord the full amount owing on or before January 31, 2026, the Tenant will start to owe interest. This will be simple interest calculated from February 1, 2026 at 4.00% annually on the balance outstanding.
8. If the unit is not vacated on or before January 31, 2026, then starting February 1, 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 February 1, 2026.
10. The LTB shall immediately release to the Landlord \$3,750.00 together with any accrued interest that the Tenant paid into the LTB in trust.*

January 8, 2026
Date Issued

Sonia Anwar-Ali
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 August 1, 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.

*Note: When the LTB directs payment-out, the Canadian Imperial Bank of Commerce will issue a cheque to the appropriate party named in this notice. The cheque will be in the amount directed plus any interest accrued up to the date of the notice

Schedule 1
SUMMARY OF CALCULATIONS

A. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before January 31, 2026

Rent Owing To January 31, 2026	\$25,000.00
Application Filing Fee	\$186.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$3,750.00
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$181.84
Total the Tenant must pay to continue the tenancy	\$21,254.16

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

Rent Owing To Hearing Date	\$18,075.33
Application Filing Fee	\$186.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$3,750.00
Less the amount of the last month's rent deposit	- \$2,500.00
Less the amount of the interest on the last month's rent deposit	- \$47.95
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$181.84
Total amount owing to the Landlord	\$11,554.54
Plus daily compensation owing for each day of occupation starting November 8, 2025	\$82.19 (per day)
**Ongoing daily compensation continues to accumulate until the total amount owing (excluding costs) is \$50,000.00.	