



**Amended Order
Order under Section 69 / 88.2
Residential Tenancies Act, 2006
And Section 21.1 of the Statutory Powers Procedure Act**

Citation: 13679179 CANADA INC. v DARBY STEWART, 2026 ONLTB 3275

Date: 2026-01-16

File Number: LTB-L-063526-25-AM

In the matter of: 830 PARTINGTON AVE
WINDSOR ON N9B2N8

Between: 13679179 CANADA INC. Landlord

And

BRANDI LYNN DARBY STEWART Tenant

13679179 Canada Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Brandi Lynn Darby Stewart (the 'Tenant') because:

- the Tenant did not pay the rent that the Tenant owes (the 'L1 Application'); and
- 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 (the 'L2 Application').

In the L2 Application, the Landlord also applied for an order requiring 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 January 5, 2026. The Landlord's Agents, Jayalakshmi Gundabathula and Nagavenkata Gundabathula, the Landlord's Legal Representative, Richard Lammers, and the Tenant attended the hearing.

This amended order is issued to correct a clerical error in the order issued on January 14, 2026

Determinations:

Request to Adjourn

1. The Tenant requested that the hearing be adjourned as she is a personal support worker and was with a client. The Tenant stated that she was unable to take the day off work

because she had no paid time off, no more sick days left and that she was 'already on attendance watch'. She stated that if she tried to cancel her shift that she would be fired. When asked if she asked her employer for the day off without pay, the Tenant stated that she received the paperwork for the hearing approximately 2 to 3 weeks prior to the hearing and that she did notify her employer and asked for the time off but that they said no.

2. The Tenant also requested an adjournment on the basis that she had evidence that she wanted to provide regarding her own issues that she wished to raise at the hearing.
3. The Board's records indicate that the Notice of Hearing was given to the parties via email on September 23, 2025. The Tenant had ample time to notify her employer of the hearing date and/or to make arrangements to have her shift covered. This was also ample time to serve on the Landlord and file with the Board her evidence and the issues that she intended to raise at the hearing. The Tenant did not provide sufficient reasons as to why she had not done so. Accordingly, the request to adjourn was denied.

L1 Application

4. 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.
5. As of the hearing date, the Tenant was still in possession of the rental unit.
6. The lawful rent is \$2,300.00. It is due on the 1st day of each month.
7. Based on the Monthly rent, the daily rent/compensation is \$75.62. This amount is calculated as follows: \$2,300.00 x 12, divided by 365 days.
8. The Tenant has paid \$600.00 to the Landlord since the application was filed.
9. The rent arrears owing to January 31, 2026 are \$18,100.00.
10. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
11. The Landlord collected a rent deposit of \$2,200.00 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.
12. Interest on the rent deposit, in the amount of \$85.12 is owing to the Tenant for the period from May 13, 2024 to January 5, 2026.
13. The Tenant did not dispute that she did not pay the rent from July 2025 to the date of the hearing but did not believe that she owed the total amount sought as she believed that the Landlord owed her for costs she incurred related to the replacement of a stove and pest control treatment. However, as the Tenant did not raise her issues in accordance with s.82 of the *Residential Tenancies Act, 2006* (the 'Act') and the Board's Rules of Procedure, the Tenant was not permitted give evidence with respect to these issues, and it was explained to the Tenant that she was free to file her own application against the Landlord.

14. In addition to foregoing, the Tenant challenged the total claimed on the basis that she made payments in cash to the maintenance person known as 'Tina' and that Tina was supposed to give these payments to the Landlord. Specifically, she stated that she gave \$2,200.00 to Tina in July 2025 but then stopped paying the rent shortly thereafter because she received the N4 Notice.
15. Lastly, the Tenant also suggested that the amount sought was incorrect because the Landlord had allocated a rent payment of \$600.00 to utilities instead of the rent.

Analysis

16. The Tenant did not have any documentary evidence such as bank statements, correspondence or receipts to support her testimony that the Landlord failed to account for payments that she made. The only payments she provided specifics for, in terms of dates and the amounts, were payments made for March 2025 and July 2025. The March payment was reflected in the Landlord's utility ledger and there was insufficient evidence to conclude that the Landlord allocated this payment incorrectly. With respect to the July 2025 payment, a total of \$2,100.00 was reflected in the Landlord's rent ledger and there was insufficient evidence to conclude that the Tenant had actually paid \$2,200.00.
17. Based on the evidence and submissions provided, I am not satisfied that there was an error in calculating the Tenant's rent arrears and I see no reason to deduct or reduce the amount sought by the Landlord.

L2 Application

18. On July 6, 2025, the Landlord gave the Tenant an N5 notice of termination, deemed served on July 7, 2025, with a termination date of July 26, 2025 (the 'N5 Notice'). In summary, the N5 Notice alleges that the Tenant failed to pay the Landlord \$2,240.07 for utilities that they were required to pay pursuant to the lease agreement.
19. The Tenant did not void the notice by paying the utility arrears requested within seven days after receiving the N5 Notice and the Tenant did not dispute this. Therefore, the Tenant did not void the N5 notice of termination in accordance with s.64(3) of the *Residential Tenancies Act, 2006* (Act).
20. The utility bills that underly the N5 Notice and L2 Application were tendered as evidence together with a ledger. The Tenant did not dispute that she was required to pay the utility bills pursuant to the lease and that she was in arrears. Rather, it was her evidence that she had difficulty getting the utility bills from the Landlord and got into a dispute with one of the Landlord's Agents over failure to provide copies of the utility bills and other issues. The Tenant stated that, during the dispute, the Landlord's Agent stated that he would pay the bills himself and so she thought she did not have to pay them. However, approximately four months later, the Landlord's Agent gave her four months of utility bills, which she was not able to pay at once and, because of this, she has been behind in paying the utility bills.

Analysis

21. The Tenant did not have any documentary evidence to support her testimony that she had made repeated demands for the utility bills or that there was an agreement between the parties that she was no longer required to pay the utility bills. Moreover, it was the Tenant's own evidence that she had the utility bills put in her name after the dispute with the Landlord's Agent. This is contrary to her position that she thought she did not have to pay the utility bills.
22. Accordingly, I find that the Tenant was required to pay the utility bills pursuant to the lease agreement and that she failed to pay to the Landlord \$2,240.07, for gas and water charges.
23. Based on the evidence and submissions provided, I find that the Tenant has substantially interfered with the Landlord's lawful rights, privileges and interests by failing to pay the utility bills. I also find that the Landlord is entitled to out-of-pocket expenses of \$2,240.07 that are the result of the Tenant's failure to pay utility costs, which she was required to pay under the terms of the tenancy agreement.

Relief from Eviction / Section 83 of the Act

24. The Landlord's Legal Representative requested termination of the tenancy and an order for the arrears and out-of-pocket costs. The Tenant was not opposed to termination of the tenancy and stated that she would like to have until the end of February or March 2026 to vacate the rental unit.
25. The Tenant stated that her son and husband were on house arrest and that she would need some time to make arrangements so that she could find a new place and relocate them in accordance with the law and/or their conditions.
26. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act and I find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
27. Based on the evidence and submissions provided, I do not find a delay of eviction to the end of February or March 2-26 to be appropriate in the circumstances as the Tenant has failed to make her rent and utility payments for several months and it is likely that she will not pay during the delay period requested. That said, I do find some delay to be appropriate given that the Tenant's son and husband are on house arrest.
28. Accordingly, I have considered all of the disclosed circumstances and find that it would not be unfair to postpone the eviction until February 8, 2026 pursuant to subsection 83(1)(b) of the Act.

It is ordered that:

1. Pursuant to the L2 Application, the tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before February 8, 2026.

2. The Tenant shall pay the Landlord the rent arrears owing up to the date of the hearing and the cost of filing the application. The amount of the rent deposit and interest the Landlord owes on the rent deposit are deducted from the amount owing by the Tenant.
3. As of the date of the hearing, the Tenant owes the Landlord \$14,078.98. See Schedule 1 for the calculation of the amount owing.
4. The Tenant shall also pay the Landlord compensation of \$75.62 per day for the use of the unit starting January 6, 2026, to the date the Tenant moves out of the unit.
5. The Tenant shall also pay to the Landlord \$2,240.07 for out-of-pocket costs for unpaid utilities.
6. If the Tenant does not pay the Landlord the full amount owing on or before February 8, 2026, the Tenant will start to owe interest. This will be simple interest calculated from February 9, 2026 at 4.00% annually on the balance outstanding.
7. If the unit is not vacated on or before February 8, 2026, then starting February 9, 2026, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
8. Upon receipt of this order, the Sheriff is directed to give vacant possession of the unit to the Landlord on or after February 9, 2026.

January 14, 2026
Date Issued

Rachel Gibbons
Member, Landlord and Tenant Board

January 16, 2026
Date Amended

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 9, 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 L1 APPLICATION

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

Rent Owing to Hearing Date	\$16,778.10
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$600.00
Less the amount of the last month's rent deposit	- \$2,200.00
Less the amount of the interest on the last month's rent deposit	- \$85.12
Total amount owing to the Landlord	\$14,078.98
Plus daily compensation owing for each day of occupation starting January 6, 2026	\$75.62 (per day)
**Ongoing daily compensation continues to accumulate until the total amount owing (excluding costs) is \$50,000.00.	