



## **Order under Section 69 Residential Tenancies Act, 2006**

**Citation:** 65 Emmett Avenue Limited v Fernandez, 2025 ONLTB 82798

**Date:** 2025-10-29

**File Number:** LTB-L-052546-25

**In the matter of:** 907, 65 Emmett Ave  
York ON M6M2E5

**Between:** 65 Emmett Avenue Limited Landlord

**And**

Luis Valenzuela Fernandez Tenants  
Vilma Valenzuela

65 Emmett Avenue Limited (the 'Landlord') applied for an order to terminate the tenancy and evict Luis Valenzuela Fernandez and Vilma Valenzuela (the 'Tenants') because:

- the Tenants has been persistently late in paying the Tenants' rent.

The Landlord also claimed compensation for each day the Tenants remained in the unit after the termination date.

This application was heard by videoconference on October 14, 2025.

The Landlord's representative Sabrina Marchionne, Landlord's agent Anthony Pukas, and the first named Tenant attended the hearing.

### **Determinations:**

1. The Landlord served a notice of termination under section 58(1). This section sets out the following

58(1) A landlord may give a tenant a notice of termination of their tenancy of any of the following grounds:

- The tenant has persistently failed to pay rent on the date it becomes due and payable.

2. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation in the application. However, the tenancy shall continue subject to terms and conditions set out below.
3. The Tenants were in possession of the rental unit on the date the application was filed.
4. The rent is due on the first day of the month and this is a month-to-month tenancy.
5. On June 23, 2025, the Landlord gave the Tenants an N8 notice of termination which indicated a termination date of August 31, 2025. The notice of termination indicated that for the period of December 1, 2024, to June 1, 2025, the Tenants paid rent late 7 times out of 7 months.
6. The Tenant did not contest the contents the N8 notice of termination and agreed that rent had been paid late during this time.
7. I find that the Tenants have persistently failed to pay their rent on the date that it is due.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

#### Relief From Eviction

9. 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 not be unfair to grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.
10. The Landlord is seeking termination of the tenancy and submits that since service of the N8 notice of termination, the Tenants have continued to not pay rent on the date it is due. Since the notice of termination was given the Tenants have made the following payments with respect to their monthly rent.
  - June 1, 2025, rent paid on June 30, 2025;
  - July 1, 2025, rent paid on August 30, 2025;
  - August 1, 2025, rent paid on September 29, 2025;
  - September 1, 2025, rent paid on October 2, 2025;
  - October 1, 2025, no rent paid as of the hearing date.
11. The Tenant submitted that they paid October 2025 rent on October 10, 2025.
12. The Landlord is seeking termination of the tenancy as the pattern of payment behaviour has not been corrected since service of the N8 notice of termination because the tenancy is not viable. The Landlord submits that a previous L1 order was voided and paid in full. The Landlord submits that the tenancy is not viable due to the Tenants monthly expenses and income.

13. At the hearing the Landlord requested a pay on time order in an effort to preserve the tenancy. Given the circumstances, I find this request to be reasonable and so the Landlord's request is granted. This is less prejudicial than a termination order and would allow the Tenants an opportunity to bring their tenancy back into good standing.
14. The Tenant was not opposed to a conditional order but asked that they be given some lead time in order to sort out their finances. The Tenants requested that November 2025 and December 2025 rent payments be pushed back to February 1, 2026.
15. The Tenant explained why the rent payments have been late. The Tenant submits that they have been sick and hospitalized for the past 3 years, which is why they fell into arrears of rent, a history of late payment and have been before the Board before regarding an L1 application. Each time they have been able to catch up. The Tenant submits that they are working full time which now allows them to make payments on time. The Tenant alleges that they have medical insurance to cover the costs for medical visits, but did not submit any evidence to support this.
16. The Tenant submits that they live in the rental unit with their elderly mother. I note that this tenancy began in 2019. The Tenant alleges that they have been staying at the residential complex since 2012 in another rental unit and switched. Therefore, there is some utility to a pay on time order and I am satisfied that it is likely a pay on time order will correct the payment history of the Tenants.
17. Given the date of this order, the Tenants shall be permitted to pay the full November 2025, December 2025, and January 2026 rent on or before February 6, 2026. This will allow the Tenants time to sort out their finances.
18. The prejudice to the Landlord is minimal and concerns raised with respect with continuous late payment can adequately be addressed through a pay-on-time order.
19. This order contains all of the reasons within it and no further reasons shall be issued.

**It is ordered that:**

1. The tenancy between the Landlord and the Tenants continues if the Tenants meet the conditions set out below.
2. The Tenants shall pay their lawful monthly rent for November 2025, December 2025 and January 2026, in full on or before February 6, 2026.
3. The Tenants shall pay their lawful monthly rent for February 2026, in full on or before February 10, 2026.
4. Commencing March 1, 2026, and continuing up to and including February 1, 2027, the Tenants shall pay their lawful monthly rent, in full and on time on or before the first day of each month.
5. If the Tenants fail to comply with the conditions set out in paragraph 2,3 and 4 of this order, the Landlord may apply under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') for an order terminating the tenancy and evicting the Tenants. The Landlord must make

the application within 30 days of a breach of a condition. This application is made to the LTB without notice to the Tenants.

6. The Tenants shall also pay to the Landlord \$186.00 for the cost of filing the application.
7. If the Tenants do not pay the Landlord the full amount owing on or before February 1, 2026, the Tenants will start to owe interest. This will be simple interest calculated from February 2, 2026, at 4.00% annually on the balance outstanding.

**January 21, 2026**  
**Date Issued**

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**Reshad Nazeer**  
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.