



**Order under Section 87 / 89
Residential Tenancies Act, 2006**

Citation: Newman v Pitman, 2026 ONLTB 4626

Date: 2026-01-23

File Number: LTB-L-020290-24 & LTB-T-019385-24

File Number:

In the matter of: B, 2381 LAWN AVE
OTTAWA ON K2B7B6

Between: Susan Newman Landlord

And

Brian Pitman Former Tenant

Susan Newman (the 'Landlord') applied for an order requiring Brian Pitman (the 'Former Tenant'):

- to pay the rent and daily compensation that the Former Tenant owes.
- 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.

Brian Pitman (the 'Former Tenant') applied for an order determining that Susan Newman (the 'Landlord') collected or retained money illegally.

Ross Nicholson testified as a witness for the Landlord on December 18, 2025.

These applications were heard by videoconference on August 7, 2024 and December 18, 2025.

The Landlord and the Tenant attended the hearing.

Determinations:

L10 application

1. As explained below, the Landlord proved the allegation contained in the application on a balance of probabilities, with respect to rent owed, therefore remedy is ordered as set out below. The Landlord did not prove the allegations contained in the application on a

balance of probabilities regarding damages, therefore, this part of the application will be dismissed.

2. I am satisfied that the Landlord served the Former Tenant 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. I am satisfied that the Landlord served the Former Tenant with the application and Notice of Hearing using a method permitted in subsection 191(1.0.1) of the *Residential Tenancies Act, 2006* (the 'Act') and Rule 3.3 of the LTB's Rules of Procedure.
4. These documents were served on December 11, 2025, by email, along with the application and evidence being relied on. The Former Tenant did not dispute receiving the documents.
5. The Former Tenant vacated the rental unit on October 1, 2023.
6. The application was filed within one year after the Former Tenant ceased to be in possession of the rental unit.
7. Based on the rent, the daily rent/compensation is \$59.17. This amount is calculated as follows: \$1,800.00 x 12, divided by 365 days.

Rent

8. The Tenant vacated October 1, 2023; the Landlord is seeking the per-diem rent/compensation for October 1, 2023.
8. The tenancy ended on October 1, 2023, based on the Former Tenant moving out in accordance with an agreement to terminate the tenancy. Therefore, the Former Tenant's obligation to pay rent ended on that date. As such, the Landlord is entitled to the per-diem rent for October 1, 2023.
9. The rent arrears and daily compensation owing to October 1, 2023, are \$59.17.

Damage

14. The Landlord testified it took approximately four months to fix the rental unit after the Former Tenant vacated. The damages, as demonstrated by the pictures, are:
 - a) Broken space heater: Replaced February 1, 2024. Video shows knob not working/engaging.
 - b) Disassembled chaise lounge: The picture shows it was not together properly and needed reassembled. It took 3 nights to make it usable.
 - c) Sliced drywall: The pictures show a large slice in drywall beside tile caulking, smaller slices in another wall and a large crack on another. These issues were not there when the unit was rented out.
 - d) Damaged/yellow caulking around toilet and base of bathtub: As seen by the pictures, the caulking is yellow. This was a short-term tenancy, and the caulking

should not be so discoloured, therefore it is beyond regular wear and tear due to the lack of cleaning.

- e) Mould from a leak in the plumbing stack that was not reported expeditiously to Landlord, causing significant baseboard and drywall damage: The pictures show the extent of damages and mould the leaking caused. There was no visible mould June 21, 2023, therefore it started somewhere between then and August 12, 2023; the Landlord had been in the unit these dates. Had the Former Tenant reported the leak and mould when it started, such extensive repairs and affiliated costs would not have been incurred. The stack was repaired the day after the Former Tenant vacated, the other work was completed mid-October as seen by the invoice.
- f) The furnished unit was not cleaned or returned to its' original condition as was required: As seen by the pictures, the unit required significant cleaning to bring it back to a state where it could be re-rented. Plus, decorative items were removed from shelves and needed put back in their proper place.
- g) Removal/moving of items the Former Tenant left in unit. The pictures show the unit had a lot of items left that the Landlord had to pack and move to the garage; the time involved to do this equates to damages.
- h) Burnt cedar hedge by where Former Tenant barbequed: The pictures show the burnt branches that will not re-grow because the barbecue was placed by the Former Tenant too close to the hedge.

All the above are willful or negligent damages caused by the Former Tenant; therefore, the Former Tenant is responsible for all related costs incurred by the Landlord..

15. Ross Nicholson, the father of the Landlord's child, testified the chaise lounge had to be put back together, including hinges and locking springs, which took a couple to evenings to complete. The large drywall slice would not be caused by age, it had to be something hard, possibly metal hitting it. The knob on the space heater appears as though it was pushed/turned past the settings, the heater was not programmed properly and did not work normally. He did not recall telling the Landlord the unit was uninhabitable and could not remember how dirty the unit was.

16. The Former Tenant testified he did not damage or break anything:

- a) He moved into the unit in the warmer weather and never used the heater, it was in the closet the whole time.
- b) The chaise lounge was by where the ceiling leak was discovered on September 30, 2023, he discovered mould on it therefore, agreed to wash it. When he unzipped the cover, the zipper broke; he texted the Landlord a picture of the zipper at that time. He never got the chance to finish putting it back together. The chaise lounge was not new, according to IKEA, this model stopped being made at the beginning of the pandemic. He never caused damage to the chaise lounge.
- c) He never took any sharp or metal object to the drywall to slice it, they are cracks, likely from age/movement of the house.

- d) He did not do anything willful or negligent to make the caulking turn yellow; caulking does this.
- e) He reported the ceiling leak and mould immediately when he discovered it, on September 30, 2023; this was when the leak came through the ceiling. He did not know there was mould until he looked behind the affected drywall. It was the Landlord who told him the leak was from the plumbing stack.
- f) He was in the furnished unit 5 ½ months, and had to vacate quickly, the same day the N11 was signed. The Landlord was given the key on October 1, 2023, and the Landlord would not let him back into the unit to get his things or do anything else.
- g) Same testimony as above.
- h) He did nothing to the cedar hedge.

Analysis

- 8. The Landlord did not prove that the Former Tenant, another occupant of the rental unit or a person whom the Former Tenant permitted in the residential complex wilfully or negligently caused undue damage to the rental unit or residential complex.
- 9. Based on the testimony and evidence before me, I find the Landlord presented no/insufficient evidence to support that the Former Tenant willfully or negligently caused undue damage; accordingly the damages portion of the application must be dismissed.
- 10. Undue damage is defined as unwarranted or inappropriate because of it being excessive or disproportionately used; the Board's Maintenance and Repair brochure is clear, Tenants/Former Tenants "are not responsible for damage caused by normal use". I accept the undisputed testimony of the Former Tenant that he never used the heater, therefore, he could not have damaged it. The reassembling of the chaise lounge and moving items back into place do not meet the definition of damage; the Former Tenant did nothing to cause damage. The Former Tenant testified he never used a sharp or metal object on the walls/drywall and the Landlord did not present any concrete evidence to the contrary, just assumptions/assertions, therefore these items are dismissed. Similarly, the Former Tenant testified he did nothing to damage the caulking and there was no concrete evidence to the contrary; this issue is also dismissed. Regarding having to clean the unit and pack items, the cleaning pictures show some dirt but nothing excessive that would go beyond regular wear and tear, and neither the Landlord's testimony nor the pictures of items left in the unit identified what items required boxed and moved. Further the Tenant's undisputed testimony was that he was not allowed access to the unit after October 1, 2023, to remove his belongings himself. Therefore, these issues are also dismissed. As to the cedar hedge, the picture shows some brown foliage, but most of the hedge is green; there was no evidence presented that pointed to the few brown areas were from being burnt, therefore, this is dismissed.
- 17. As the Landlord was partially successful, the Landlord is entitled to reimbursement of the application filing fee.

T1 application

18. As explained below, the Former Tenant proved the allegations contained in the application on a balance of probabilities. Therefore, the Landlord must reimburse the Former Tenant as set out below.
19. The Former Tenant paid a last month rent deposit to the Landlord in the amount of \$1800.00, on March 27, 2023.
20. The tenancy began on April 23, 2023.
21. On October 1, 2023, the parties signed a N11 Agreement to End the Tenancy on October 1, 2023.
22. The Former Tenant testified that at approximately noon on May 1, 2023, he came home and found about an inch of water on the kitchen floor; upon investigation he realized that sometime overnight on April 30, 2023, the sump pump in the basement backed up. The Former Tenant emailed the Landlord on May 1, 2023, about the situation; the Landlord replied, advising where the shop vac was and asking the Former Tenant to check the pump as it sometimes gets stuck, and the float needs jiggled. The Former Tenant cleaned up the water and addressed the pump as requested. On September 30, 2023, there was another flood in the unit, this time from the ceiling; the Former Tenant investigated, then emailed the Landlord right way. The Tenant advised they removed some drywall and discovered water damage and what appeared to be mould in behind; it looked like the leak had been going on for awhile before coming through the ceiling. The Tenant raised his concerns about the habitability of the unit due to what appeared to be black mould. The Landlord offered the Former Tenant two options for vacating; the Former Tenant chose the second option involving signing the N11 for termination October 1, 2023, and getting the last month rent deposit back. The Landlord did not return the last month rent deposit as was supposed to.
23. The Landlord did not dispute the floods or signing the N11; the last month rent deposit was not returned because the Former Tenant did not return the key right away; the Landlord did not get it until October 1, 2023. Plus, the Landlord did not receive vacant possession on October 1, 2023; there were still some possessions and garbage in the unit. The Landlord had to make approximately 15 trips to store the items in the garage for the Former Tenant to access them. Therefore, because the unit was not left the way it was supposed to, the Landlord should be entitled to keep the last month rent deposit. If not, the Landlord should be entitled to one-day rent for October 1, 2025.
24. The Landlord did not use the Former Tenant's rent deposit to pay for the last rental period of the tenancy and did not return the deposit to the Tenant. This is prohibited by the *Residential Tenancies Act, 2006* (the 'Act'). The Former Tenant and Landlord had a signed agreement to terminate the tenancy October 1, 2023, and the Former Tenant vacated pursuant to this agreement. There is no dispute that the deposit was not applied to the last month of the tenancy, September 2023; therefore, the Landlord is legally required to return the last month rent deposit to the Former Tenant.
25. The issue of per-diem rent for October 1, 2023, is dealt with in the L10 application.
26. As the Former Tenant is successful in the application, the Former Tenant is entitled to reimbursement of the application filing fee.

It is ordered that:

L10 application

1. The damage portion of the Landlord's application is dismissed.
2. The Former Tenant shall pay the Landlord \$59.17, the per-diem rent for October 1, 2023.
3. The Former Tenant shall also pay the Landlord \$186.00 for the application filing fee.
4. The total amount the Former Tenant owes the Landlord is \$245.17; this amount shall be set off against the amount the Landlord owes the Former Tenant.

T1 application

5. The total amount the Landlord shall pay the Former Tenant is \$1,853.00. This amount represents:
 - \$1,800.00 for the last month's rent deposit.
 - \$53.00 for the cost of filing the application.
6. The amount of \$245.17 shall be subtracted from the amount the Landlord owes, as per paragraph 4 above.
7. The Landlord shall pay the Former Tenant \$1,607.83 by February 3, 2026.
8. If the Landlord does not pay the Former Tenant the full amount owing from paragraph 7 by February 3, 2026, the Landlord will owe interest. This will be simple interest calculated from February 4, 2026, at 4.00% annually on the balance outstanding.
9. The Former Tenant has the right, at any time, to collect the full amount owing or any balance outstanding under this order.

January 23, 2026

Date Issued

Diane Wade

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.

* Refer to the attached Summary of Calculations.

Schedule 1
SUMMARY OF CALCULATIONS

Amount the Former Tenant must pay the Landlord:

Rent and Compensation Owing To October 1, 2023	\$59.17
Damage Costs	\$0
Application Filing Fee	\$186.00
Total amount owing to the Landlord	\$245.17