



Order under Section 21.2 of the Statutory Powers Procedure Act and the Residential Tenancies Act, 2006

Citation: Drake Property Management v Ruttan, 2025 ONLTB 92853

Date: 2026-01-28

File Number: LTB-L-056459-25-RV

In the matter of: 605, 150 HUGHSON ST S
HAMILTON ON L8N2B4

Between: Drake Property Management

Landlord

And

Kim Ruttan
Joshua Davies

Tenant

Drake Property Management (the 'Landlord') applied for an order to terminate the tenancy and evict Kim Ruttan and Joshua Davies (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-056459-25 issued on October 3, 2025.

On November 3, 2025, the Tenant Kim Ruttan requested a review of the order and that the order be stayed until the request to review the order is resolved.

On November 4, 2025, interim order LTB-L-056459-25 -RV-IN was issued, staying the order issued on October 3, 2025.

This application was heard by videoconference on November 27, 2025.

The Landlord's agent S. Guarascio, the Landlord's representative Mark Ciobotaru and the Tenant Kim Ruttan attended the hearing.

Determinations:

Review Request

1. The Tenant requested a review of order LTB-L-056459-25 issued on October 3, 2025 stating the Tenant was not reasonably able to participate in the hearing which was conducted on September 17, 2025.
2. The Tenant Kim Ruttan (The "Tenant" or "KR") testified she does not own a computer and thus, she sought to participate by telephone. According to KR, she attempted to sign into

the hearing but became confused/frustrated when she was unsuccessful in doing so, and eventually lost power to her phone. KR suggested her lack of ability to connect could be attributed to her health issues. Eventually, when the Tenant was able to successfully connect, KR noted she was advised the matter was already heard.

3. The Landlord requested that the review be denied, noting the Tenant's lack of due diligence. In this regard, the Landlord stated the Tenant should have ensured she had sufficient phone power on the day of hearing and moreover, the Tenant could have sought technical assistance by calling the toll-free number on the NOH on the day of hearing.
4. In *King-Winton v. Doverhold Investments Ltd.*, 2008 CanLII 60708, the Divisional Court held that "*being reasonably able to participate in the proceeding must be interpreted broadly, natural justice requires no less.*"
5. Interpreting this situation broadly, I find on a balance of probabilities that the Tenant was not reasonably able to participate in the proceedings. Here, the evidence suggests the Tenant sought to participate but was unable to do so. While the Tenant did not produce any medical documentation, the Tenant suggested her connection challenges on the day of hearing could have at least been partly attributed to her health issues. For the reasons above and given the nature and importance of the proceeding to the Tenant, the Tenant's review request is granted and the Landlord's application was heard on its merits.

L1 Application

6. 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.
7. As of the hearing date, the Tenant was still in possession of the rental unit.
8. The lawful rent is \$840.50. It is due on the 1st day of each month.
9. Based on the Monthly rent, the daily rent/compensation is \$27.63. This amount is calculated as follows: $\$840.50 \times 12$, divided by 365 days.
10. The Tenant has not made any payments since the application was filed.
11. The rent arrears owing to November 30, 2025 are \$14,063.00. The Tenant KR disputed the arrears, stating payments were continuing to be made by ODSP directly to the prior landlord who sold the building to the Landlord in June 2024.
12. For the reasons that follow, I did not find the Tenant's evidence believable that payments were being made on their behalf, as suggested. The Tenant did not produce any documentation of purported payments being made, nor was there any evidence adduced to show the Tenant was attempting to rectify any such alleged payment errors. While the Tenant indicated she was awaiting on lease documentation from the Landlord, the Tenant acknowledged receiving the Landlord's welcome/payment handbook when the Landlord purchased the building and no correspondence was produced showing the Tenant awaiting on any information from the Landlord. Based upon the evidence presented, I find it is more

likely than not that no rent payments were made to the Landlord for the relevant period, and that the rent arrears owing to November 30, 2025 are \$14,063.00

13. The Landlord collected a rent deposit of \$830.09 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.

Section 83

14. Section 83 requires that I consider all the circumstances, including the Tenant's and the Landlord's situations to determine if it would be appropriate to grant section 83 relief from eviction.
15. The tenancy commenced in 2023 and there are no children residing at the rental unit.
16. The Tenant KR seeks to remain at the rental unit, noting she has health issues and is in receipt of ODSP support in the amount of \$786/month. While the monthly rent amount is greater than KR's monthly income amount, the Tenant KR stated the tenant Joshua Davies' ODSP support may be reinstated in the future. In the event that eviction were granted, the Tenant requested at least 2 months to find alternative accommodations.
17. The Landlord's representative advised that the Landlord has tried to reach out to the Tenant for a repayment plan, without success. The Landlord seeks a standard eviction, noting the time that has passed, the significant arrears and the lack of any payment since July 2024.
18. I have considered all of the disclosed circumstances in accordance with subsection 83 of the *Residential Tenancies Act, 2006* (RTA), including the personal/health and financial circumstances noted by the Tenant. In the circumstances, I find the Tenants' failure to pay any rent since July 2024 suggests an inability and/or unwillingness to comply with a repayment plan moving forward. The Tenant is currently in receipt of \$786/month. While the Tenant stated the tenant Joshua Davies' ODSP support may be reinstated in the future, the Tenant was unclear as to when this might occur.
19. Notwithstanding the foregoing, I find that it would not be unfair to postpone the eviction until February 28, 2026 pursuant to subsection 83(1)(b) of the Act. The delayed eviction will provided the Tenants with additional time to either void the order as noted below, or find alternative accommodations.

It is ordered that:

1. The request to review order LTB-L-056459-25 issued on October 3, 2025 is granted, and order LTB LTB-L-056459-25 issued on October 3, 2025 is cancelled and replaced with this order:
2. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.
3. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**

- \$14,903.50 if the payment is made on or before December 31, 2025. See Schedule 1 for the calculation of the amount owing.

OR

- \$15,744.00 if the payment is made on or before January 31, 2026. See Schedule 1 for the calculation of the amount owing.

OR

- \$16,584.50 if the payment is made on or before February 28, 2026. See Schedule 1 for the calculation of the amount owing.

4. 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 February 28, 2026 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.
5. **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 February 28, 2026.**
6. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$13,138.42. This amount includes rent arrears owing up to the date of the hearing. The rent deposit and interest the Landlord owes on the rent deposit are deducted from the amount owing by the Tenant. See Schedule 1 for the calculation of the amount owing.
7. The Tenant shall also pay the Landlord compensation of \$27.63 per day for the use of the unit starting November 28, 2025 until the date the Tenant moves out of the unit.
8. If the Tenant does not pay the Landlord the full amount owing on or before February 28, 2026, the Tenant will start to owe interest. This will be simple interest calculated from March 1, 2026 at 4.00% annually on the balance outstanding.
9. If the unit is not vacated on or before February 28, 2026, then starting March 1, 2026, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
10. 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 March 1, 2026.

January 28, 2026
Date Issued

Peter Nicholson
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 September 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.

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 December 31, 2025

Rent Owing To December 31, 2025	\$14,903.50
Total the Tenant must pay to continue the tenancy	\$14,903.50

B. 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	\$15,744.00
Total the Tenant must pay to continue the tenancy	\$15,744.00

C. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before February 28, 2026

Rent Owing To February 28, 2026	\$16,584.50
Total the Tenant must pay to continue the tenancy	\$16,584.50

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

Rent Owing To Hearing Date	\$13,968.51
Less the amount of the last month's rent deposit	- \$830.09
Total amount owing to the Landlord	\$13,138.42
Plus daily compensation owing for each day of occupation starting November 28, 2025	\$27.63 (per day)
**Ongoing daily compensation continues to accumulate until the total amount owing (excluding costs) is \$50,000.00.	