



Order under Section 69 Residential Tenancies Act, 2006

Citation: Royal Bank of Canada c/o Gowling WLG LLP v Zhou, 2026 ONLTB 11505

Date: 2026-02-04

File Number: LTB-L-081686-25

In the matter of: 407, 15 HOLMES AVE
NORTH YORK ON M2N0L4

Between: Royal Bank of Canada c/o Gowling WLG LLP Landlord

And

Zijie Zhou Tenants
Jiulu Gan
Feng Zhou

Royal Bank of Canada c/o Gowling WLG LLP (the 'Landlord') applied for an order to terminate the tenancy and evict Zijie Zhou, Jiulu Gan and Feng Zhou (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on December 10, 2025.

The Landlord's Legal Representative Jeffrey Kukla and the Tenant Jiulu Gan attended the hearing.

Determinations:

1. The Landlord served the Tenants with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). The Tenants 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.
2. As of the hearing date, the Tenants were still in possession of the rental unit.
3. The lawful rent is \$3,000.00. It is due on the 16th day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$98.63. This amount is calculated as follows: \$3,000.00 x 12, divided by 365 days.
5. The Tenants has not made any payments since the application was filed.
6. The rent arrears owing to December 15, 2025 are \$18,000.00.

7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

Section 82 issues

8. The Tenants raised an issue at the hearing pursuant to section 82 of the *Residential Tenancies Act, 2006* (the 'Act') stating that pursuant to the lease agreement the Landlord is responsible water and sewer charges at the rental unit, but has failed to reimburse the Tenants these expenses from July 16, 2024 to April 6, 2025 totalling \$1,225.89.
9. The Landlord does not dispute that the Landlord is responsible for water and sewer charges at the rental unit. However, the Landlord's Legal Representative submits that the amount claimed by the Tenants should be reduced claiming that the Landlord is a mortgagee in possession and pursuant to section 47(5) of the *Mortgages Act R.S.O. 1990, c. M.40*. the Landlord is only responsible for obligations that were incurred while the Landlord was deemed to be the landlord, which commenced on June 4, 2025.
10. Alternatively the Landlord's Legal Representative submits that a portion of the amount claimed by the Tenants is statute barred.

Mortgages Act

11. The Landlord relies on Section 47 of the *Mortgages Act, R.S.O. 1990, c.M.40* and in particular subsection 5:

47 (1) A person who becomes the mortgagee in possession of a mortgaged residential complex which is the subject of a tenancy agreement between the mortgagor and a tenant or who obtains title to the residential complex by foreclosure or power of sale shall be deemed to be the landlord under the tenancy agreement.

(2) A person who is the landlord under the tenancy agreement ceases to be the landlord while another person is deemed to be a landlord under subsection (1).

(3) A person who is deemed to be a landlord is subject to the tenancy agreement and to the provisions of the *Residential Tenancies Act, 2006* which apply to residential complex.

(4) A person shall no longer be deemed to be the landlord under the tenancy agreement when the person ceases to be a mortgagee in possession.

(5) Despite subsection (4), a person who is deemed to be a landlord under subsection (1) continues to be liable for the obligations of a landlord that were incurred while the person was deemed to be a landlord.

12. The Landlord's Legal Representative indicates that the Landlord as a mortgagee in possession is only responsible for obligations that were incurred while the Landlord was the landlord of the rental property which occurred on June 4, 2025.
13. However, section 18 of the *Residential Tenancies Act, 2006* (the 'Act') states:

Covenants concerning things related to a rental unit or a residential complex in which it is located run with the land, whether or not the things are in existence at the time the covenants are made.

14. Additionally the *Residential Tenancies Act, 2006* states at section 3(4)

If a provision of this Act conflicts with a provision of another Act, other than the *Human Rights Code*, the provision of this Act applied.

15. The Landlord relied upon three cases to support their position being 981673 *Ontario Limited and Jessome* 21 O.R. (3d) 343 (“Jessome”) and two LTB decisions *Royal Bank of Canada and Selman*, and *Irving v. AGC Inc.* both decisions applied Jessome and *Prenor Trust Co. of Canada v. Forrest*, [1993] O.J. No. 1058 (Gen. Div.); and *Graff v. Dama* (1995), 53 A.C.W.S. (3d) 622 (Gen. Div.). another case on the issue.

16. However, in *Royal Bank of Canada v. MacPherson*, [2009] O.J. No. 3806, the Divisional Court held that a mortgagee in possession is liable for amounts of pre-paid rent that were collected by the former LL. In coming to that conclusion, the Div Ct. considered the Jessome and Prenor cases, and found that they did not assist where the issue was prepaid rent. It is true that the Div Ct. left open the question of whether a MIP would be liable for an abatement of rent (see para 41), it didn't seem to endorse the reasoning in those decisions very strongly, and noted that they did not discuss or analyze section 47 of the *Mortgages Act*:

40 The Bank argues that the responsibilities of the mortgagee-in-possession as a landlord is limited to the period when the mortgagee became landlord, and therefore it is not responsible to the tenant for liabilities which occurred during the tenure of the original landlord. This proposition is said to be supported by 981673 *Ontario Ltd. v. Jessome* (1994), 21 O.R. (3d) 343 (Gen. Div.); *Prenor Trust Co. of Canada v. Forrest*, [1993] O.J. No. 1058 (Gen. Div.); and *Graff v. Dama* (1995), 53 A.C.W.S. (3d) 622 (Gen. Div.).

41 These cases are not helpful. Of the three, only Jessome deals with advance rent, and relies upon *Bowls*. For reasons previously outlined, I conclude on the facts of this case that *Boutis* is no longer determinative. Prenor and Graff deal with claims for an abatement of rent. It may be that a tenant's claim for an abatement of rent against the mortgagee-in-possession will be limited in time to that period when the mortgagee became the landlord, but this is a very different issue than the one before this court. Section 47 of the *Mortgages Act* is not discussed in the analysis in Prenor and Graff.

42 Section 47 of the *Mortgages Act* makes it clear that the Bank steps into the shoes of the landlord/owner at the date it assumes possession. As the tenant here prepaid his rent to the landlord, the Bank has no right to claim further rent from him. The Bank has recourse against the owner for any shortfall in the rents. Therefore, the Board did not err in its application of ss. 105 and 106 of the RTA.

17. In the case at hand the Tenants have paid water and sewer charges for the rental property, which they were entitled to reimbursement by the Landlord. I see little difference between the pre-payment of a service to be reimbursed by the Landlord and the pre-payment of rent contemplated in *Royal Bank of Canada v. MacPherson*. As such, I am not swayed by the Landlord's argument that any claims by the Tenants should be limited to the date the Landlord became mortgagee in possession of the property.

Limitation of Tenants' Claim

18. Section 82 of the Act indicates that:

At a hearing of an application by a landlord under section 69 for an order terminating a tenancy and evicting a tenant based on a notice of termination under section 59, the Board shall permit the tenant to raise any issue that could be the subject of an application made by the tenant under this Act if the tenant,

19. However, section 29(2) of the Act limits the time frame in which a tenant may make an application stating:

No application may be made under subsection (1) more than one year after the day the alleged conduct giving rise to the application occurred.

20. The Tenants filed their 'Issues a Tenant wishes to raise at a hearing form' with the Board on November 30, 2025. As such, any claim by the Tenants should be limited pursuant to section 29(2) of the Act to one year prior being November 30, 2024.

Quantum of Section 82 Claim

21. The Tenants seek compensation in the amount of \$1,225.89 for water and sewer expenses incurred by the Tenants that were not reimbursed by the Landlord pursuant to the lease agreement.
22. The amount sought for this expenses is broken down as follows:

Start date	End date	Amount of bill
July 16, 2024	August 11, 2024	\$67.54
August 11, 2024	September 11, 2024	\$70.67
September 11, 2024	October 11, 2024	\$69.71
October 11, 2024	November 11, 2024	\$76.60
November 11, 2024	December 11, 2024	\$74.09
December 11, 2024	January 11, 2025	\$87.72
January 11, 2025	February 11, 2025	\$82.82

February 11, 2025	March 11, 2025	\$71.41
March 11, 2025	April 11, 2025	\$93.09
April 11, 2025	May 11, 2025	\$72.06
May 11, 2025	June 11, 2025	\$58.53
June 11, 2025	July 11, 2025	\$79.71
July 11, 2025	August 11, 2025	\$70.58
August 11, 2025	September 11, 2025	\$89.68
September 11, 2025	October 11, 2025	\$84.43
October 11, 2025	November 11, 2025	\$77.25
TOTAL		\$1,225.89

23. The amounts claimed by the Tenants prior to November 30, 2024 are statute barred and the Tenants will not be compensated for those amounts.
24. The period from November 11, 2024 to December 11, 2024 in the amount of \$74.09 shall be pro-rated from November 30, 2024 to December 11, 2024 (12 days) as follows: \$74.09 divided by 30 days = \$2.46 per day x 12 TOTALS = \$29.52
25. The Tenants are entitled to compensation as follows:

Start date	End date	Amount of bill
November 30, 2024	December 11, 2024	\$29.52
December 11, 2024	January 11, 2025	\$87.72
January 11, 2025	February 11, 2025	\$82.82
February 11, 2025	March 11, 2025	\$71.41
March 11, 2025	April 11, 2025	\$93.09
April 11, 2025	May 11, 2025	\$72.06
May 11, 2025	June 11, 2025	\$58.53
June 11, 2025	July 11, 2025	\$79.71
July 11, 2025	August 11, 2025	\$70.58
August 11, 2025	September 11, 2025	\$89.68

September 11, 2025	October 11, 2025	\$84.43
October 11, 2025	November 11, 2025	\$77.25
TOTAL		\$ 896.80

26. The Tenants are entitled to a rebate of rent of \$896.80. This amount will be deducted from the amount owing to the Landlord.
27. The Landlord collected a rent deposit of \$3,000.00 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.
28. Interest on the rent deposit, in the amount of \$105.62 is owing to the Tenant for the period from July 15, 2024 to December 10, 2025.
29. The Landlord sought termination of the tenancy due to the arrears owing and continued non-payment of rent.
30. The Tenants did not dispute the arrears, but did not pay rent to the Landlord as it became due and owing as the Landlord had failed to reimburse the Tenants for water and sewer charges on the rental unit.
31. The Tenants states that they are seeking alternative housing arrangements and sought some additional time of 2 months to do so.
32. 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. The Tenants wilfully did not pay the Landlord new rent as it became due and payable, additionally the Tenants have had since the date they received the N4 notice of termination on September 11, 2025 to seek alternative housing.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated unless the Tenants void this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$23,289.20 if the payment is made on or before February 15, 2026. See Schedule 1 for the calculation of the amount owing.
3. The Tenants may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenants have paid the full amount owing as ordered plus any additional rent that became due after February 15, 2026 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenants may only make this motion once during the tenancy.
4. **If the Tenants do not pay the amount required to void this order the Tenants must move out of the rental unit on or before February 15, 2026.**

5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$13,649.33. 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 are deducted from the amount owing by the Tenants. See Schedule 1 for the calculation of the amount owing.
6. The Tenants shall also pay the Landlord compensation of \$98.63 per day for the use of the unit starting December 11, 2025 until the date the Tenants move out of the unit.
7. If the Tenants do not pay the Landlord the full amount owing on or before February 15, 2026, the Tenants will start to owe interest. This will be simple interest calculated from February 16, 2026 at 4.00% annually on the balance outstanding.
8. If the unit is not vacated on or before February 15, 2026, then starting February 16, 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 16, 2026.

February 4, 2026
Date Issued

Sean Ramage
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 16, 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 February 15, 2026

Rent Owing To February 15, 2026	\$24,000.00
Application Filing Fee	\$186.00
Less the amount the Tenants are entitled to a rebate	-\$896.80
Total the Tenant must pay to continue the tenancy	\$23,289.20

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

Rent Owing To Hearing Date	\$17,465.75
Application Filing Fee	\$186.00
Less the amount of the last month's rent deposit	- \$3,000.00
Less the amount of the interest on the last month's rent deposit	- \$105.62
Less the amount the Tenants are entitled to a rebate	-\$896.80
Total amount owing to the Landlord	\$13,649.33
Plus daily compensation owing for each day of occupation starting December 11, 2025	\$98.63 (per day)
**Ongoing daily compensation continues to accumulate until the total amount owing (excluding costs) is \$50,000.00.	