



Order under Section 69 Residential Tenancies Act, 2006

Citation: Waterloo Region Housing v Fitz Gibbon, 2026 ONLTB 13762

Date: 2026-02-17

File Number: LTB-L-038981-22

In the matter of: 130, 47 HOLBORN DR
KITCHENER ON N2A2C9

Between: Waterloo Region Housing Landlord

And

Carolyn Fitz Gibbon Tenant

Waterloo Region Housing (the 'Landlord') applied for an order to terminate the tenancy and evict Carolyn Fitz Gibbon (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on February 2, 2026.

The Landlord's Agent, Lynda Gourlie, the Tenant, and the Tenant's Legal Representative, Anthony Debly, attended the hearing.

Determinations:

1. At the hearing on February 10, 2025, the Landlord's N4 Notice of Termination ("N4 Notice") was found to be invalid. The Landlord's agent asked to amend the L1 application to an L9 application for arrears only. This request was denied because the Landlord's documents, including the N4 Notice, the L1 application, and the L1/L9 information update sheet, contained inconsistent amounts and multiple errors. Due to these discrepancies, the documents were confusing, and the actual arrears could not be reliably determined. As a result, the Landlord's application was dismissed.
2. Despite the dismissal of the Landlord's L1 application, the Tenant may raise issues pursuant to s.82 of the *Residential Tenancies Act, 2006* (the 'Act').
3. After reviewing the section 82 issues the Tenant intended to raise at the hearing, the Tenant was given an opportunity to amend her section 82 claim because the issues identified, and the remedies requested were unclear. In particular, the Tenant sought rent abatements expressed as percentages of the rent for September 2020, November 2021, and June 2022. Additionally, several issues referenced June 17, 2022, for which the Tenant was seeking a total rent abatement of 155%.

4. The Tenant and the Tenant's previous representative were given specific directions that, on or before March 17, 2025, the Tenant must provide the Landlord and file with the LTB a written description of each issue they intend to raise under section 82 of the Act. By the same deadline, the Tenant must also provide the Landlord and file with the LTB copies of all documents, photographs, and any other evidence they intend to rely on at the hearing that has not already been disclosed¹.
5. On March 3, 2025, interim order LTB-L-038981-22-IN4² was issued dismissing the Landlord's L1 application and set out the expectations for the next hearing.
6. On October 21, 2025³, a hearing was scheduled specifically to determine the issues the Tenant intended to raise pursuant to section 82 of the Act. The Tenant had recently retained legal counsel prior to the hearing. The Tenant's representative requested an adjournment to provide him with more time to familiarize themselves with the Tenant's section 82 issues and disclosure. He noted the Tenant's previous legal representative had not complied with the interim order issued on March 3, 2025. The request to adjourn the matter was granted.
7. At the hearing on February 2, 2026, the Tenant's representative confirmed that no amended documents had been filed with the Board or provided to the Landlord regarding the amended section 82 issues. He explained that staffing difficulties in his office had prevented the amendments from being completed and disclosed. The Tenant's representative requested an adjournment to allow time to comply with the oral direction given at the hearing on October 21, 2025.
8. The adjournment request was denied. The LTB's obligation is to adopt the most expeditious method of determining the questions arising in a proceeding that affords to all persons directly affected by the proceeding an adequate opportunity to know the issues and be heard on the matter.
9. After reviewing the Board's records, it is clear that the Tenant has been aware since February 10, 2025, and most recently since October 21, 2025, that she and her representative were required to provide the necessary documents to the Landlord. In my view, adjourning the hearing for a third time to give the Tenant another opportunity to amend her section 82 issues would be prejudicial to the Landlord. At minimum, the Tenant has had since October 2025 to file and serve the required documents, and the reasons provided in support of another adjournment are insufficient and demonstrate a lack of due diligence.
10. Furthermore, the Divisional Court has stated in *Q Res IV Operating GP Inc. v. Berezovs'ka* 2017 ONSC 5541: If parties are not diligent in dealing with legal proceedings then they cannot demand that a Tribunal waste its resources by rehearing matters a second time. To allow this would undermine the ability of the administration of justice to deliver timely, cost- effective and final orders.
11. As a result, the Tenant's request to raise issues pursuant to section 82 of the Act is denied and the Landlord's application is dismissed.

¹ Adjournment Sheet – February 11, 2025 - DOC-5029820

² Interim order – March 3, 2025 – DOC-5030964

³ Adjournment Sheet – October 22, 2025 -DOC-6640048

It is ordered that:

1. The Landlord's application is dismissed.

February 17, 2026
Date Issued

Susan Priest
Member, Landlord and Tenant Board

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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.