



**Order under Section 126
Residential Tenancies Act, 2006**

Citation: Majerczyk v CHATER, 2026 ONLTB 11095

Date: 2026-02-12

File Number: LTB-L-081999-23

In the matter of: 369 Dean Avenue, Oshawa, Ontario, L1H 3E1

Between: Janina Majerczyk Landlord

And

Refer to attached Schedule 2 Tenants

Janina Majerczyk (the 'Landlord') applied for an order permitting the rent charged to be increased by more than the guideline for one or more of the rental units in the residential complex.

Order Preamble

A Case Management Hearing was held on August 21, 2025. The Parties were unable to resolve the issues and this application was directed to a written merits hearing.

This application was resolved by a written hearing. The Board received submissions from the following Tenants: Caroline Schlaht, Brent Chater and Marisa Mei.

A reply to the Tenant submissions was received from the Landlord.

It is determined that:

1. I find that the Landlord has justified a rent increase above the guideline because the Landlord incurred an eligible capital expenditure for the residential complex or one or more of the rental units in it.

The Definition of Capital Expenditure

2. The Landlord must lead evidence to establish that each of the capital expenditures claimed meets the definition of "capital expenditure" as set out in s. 18(1) of the regulation. It says:

"capital expenditure" means an expenditure for an extraordinary or significant renovation, repair, replacement or new addition, the expected benefit of which extends for at least five years including,

- a. an expenditure with respect to a leased asset if the lease qualifies as determined under subsection (2), and
- b. an expenditure that the landlord is required to pay on work undertaken by a municipality, local board or public utility, other than work undertaken because of the landlord's failure to do it,

but does not include,

- c. routine or ordinary work undertaken on a regular basis or undertaken to maintain a capital asset in its operating state, such as cleaning and janitorial services, elevator servicing, general building maintenance, grounds-keeping and appliance repairs, or
- d. work that is substantially cosmetic in nature or is designed to enhance the level of prestige or luxury offered by a unit or residential complex;

"Eligible" Capital Expenditures

- 3. In addition to meeting the definition of capital expenditure, each of the Landlord's claimed items must be an "eligible" capital expenditure.
- 4. Subsections 126(7) and (8) of the Act say:

(7) Subject to subsections (8) and (9) and except under the prescribed circumstances, a capital expenditure is an eligible capital expenditure for the purposes of this section if,

- a. it is necessary to protect or restore the physical integrity of the residential complex or part of it;
- b. it is necessary to comply with subsection 20 (1) or clauses 161 (a) to (e);
- c. it is necessary to maintain the provision of a plumbing, heating, mechanical, electrical, ventilation or air conditioning system;
- d. it provides access for persons with disabilities;
- e. it promotes energy or water conservation; or
- f. it maintains or improves the security of the residential complex or part of it.

(8) A capital expenditure to replace a system or thing is not an eligible capital expenditure for the purposes of this section if the system or thing that was replaced did not require major repair or replacement, unless the replacement of the system or thing promotes,

- g. access for persons with disabilities;

- h. energy or water conservation; or
- i. security of the residential complex or part of it.

The 18-Month Window

- 5. Pursuant to s. 26(2) of the regulation a rent increase shall not be ordered in respect of a capital expenditure unless the work was completed during the 18-month period ending 90 days before the effective date of the first intended rent increase referred to in the application. In this case the 18-month window is from May 3, 2022 to November 3, 2023.
- 6. The expenditure must also be "incurred" which essentially means the work must have been paid for prior to the application being filed. This is not an issue with respect to any of the items claimed in this application.

The Useful Life

- 7. If the expenditure meets the requirements set out above, then the Board must establish the useful life of the work done in order to calculate the allowable increase.
- 8. Section 27 of the regulation says:

27. (1) The useful life of work done or a thing purchased shall be determined from the Schedule subject to the following rules:

- a. Where the useful life set out in Column 3 of the Tables in the Schedule is less than 10 years, the useful life of work done or a thing purchased shall be deemed to be 10 years.
- b. If, when a thing is purchased, it has previously been used, the useful life of the thing shall be determined taking into account the length of time of that previous use.
- c. If the work done or thing purchased does not appear in the Schedule, the useful life of the work or thing shall be determined with reference to items with similar characteristics that do appear in the Schedule.
- d. Despite paragraphs 2 and 3, for the purposes of making a finding under this section, the useful life of work done or a thing purchased shall not be determined to be less than 10 years.

(2) If the useful life of work done or a thing purchased cannot be determined under subsection (1) because the work or thing does not appear in the Schedule and no item with similar characteristics appears in the Schedule, the useful life of the work or thing shall be what is generally accepted as the useful life of such work or thing but in no case shall the useful life be determined to be less than 10 years.

Capital Expenditure

9. The Landlord justified a rent increase above the guideline because of capital expenditures.
10. The maximum rent increase for capital expenditures is 1.34%. The increase is to be taken in the first year.
11. The Landlord's application is for a single capital expenditure: Roof Replacement.

Capital Expenditure – Roof Replacement

12. The Landlord submits that the work was necessary as the roof was beyond its useful life, was not longer weathertight and needed to be replaced. The scope of the project involved the removal of the old shingles and installation of the new flashing, ice shield and asphalt shingles.
13. The Landlord submits this item is “eligible” because was necessary to restore the physical integrity of the complex and to comply with the Landlord’s maintenance obligations under section 20(1) of the Act.
14. Based on the uncontested evidence, I am satisfied the roof replacement meets the definition of capital expenditure contained in subsection 18(1) of the O. Reg. 516/06 as it was a significant repair or replacement, the expected benefit of which extends for at least five years. It also meets the test for eligibility under subsections 126(7)(a) of the Act as it was necessary to protect or restore the physical integrity of the residential complex and s.126(7)(b) of the Act as it was necessary to comply with housing standards.
15. The costs claimed for this item is \$8,334.12.
16. Based on the “Useful Life of Work Done or Things Purchased” (the ‘Schedule’) found at the end of O. Reg. 516/06 the roof replacement should be assigned a useful life of 15 years (Thermal and Moisture Protection - Table 16 - Item 18 – Sloped (asphalt shingles) roof.

Written Submissions

Maintenance

17. The Tenants in Units #3 and #4 submit that the Landlord has failed to take reasonable and appropriate steps to address a number of maintenance issues within their units and the residential complex including the following:
 - a. Exterior areas – no seasonal clean up, garbage not picked up, lights not replaced and entrance walkways not salted during the winter months.

- b. Fence and patio not properly maintained.
 - c. Heating ducts have not been cleaned.
 - d. Doors show signs of rust.
 - e. Windows not properly sealed allow drafts; and
 - f. Failing to change furnace filters.
18. In its reply, the Landlord submits that it had not received any maintenance complaints prior to the Tenants' submissions in response to this application. The Landlord advises that the fence gate and latch were repaired on November 4, 2025. As for the not weathertight windows in Unit #3, the Landlord submits they will be replaced.
19. Subsection 126(12) of the *Act* refers to serious, ongoing breaches of the Landlord's maintenance obligations. I am not satisfied that maintenance issue raised by the Tenants, even if they remain outstanding, would rise to the level of a serious breach of the Landlord's maintenance obligation. A disrepair problem that is not "serious" as that term is used under the *Act* is not relevant to these proceedings. However, if there are outstanding maintenance issues the Tenants are entitled to file their own application(s) at the Board in respect of these issues.
20. Although the Tenants may feel it is unjust, section 126 of the *Act* specifically provides that a landlord may apply for an AGI for eligible capital expenditures incurred respecting the residential complex or rental units. Members do not have the discretion to deviate from the legal tests set out above.

Miscellaneous Additional Issues

21. The Tenants made submissions about a number of issues which, while I understand are of importance to the Tenants, are not relevant and for which the *Act* does not permit me to consider in the hearing of this matter. These issues include:
- a. Landlord has not paid interest on the last month rent deposits held by the Landlord.
 - b. Validity of the Notices of Rent Increase (N1 Form) and whether the Landlord has increased the rent illegally.
 - c. Landlord did not provide the required 24 hour written notice before entering the rental unit.
 - d. Landlord's interaction with the Tenants, have on occasion been described as substantially interfering with the Tenants' reasonable enjoyment of their unit and could constitute harassment; and
 - e. There is no common garbage storage area.

If the Tenants believe that the Landlord has failed to comply with their obligations under the legislation, the Tenants entitled to file their own application(s) at the Board in respect of these issues.

It is ordered that:

1. The Landlord may increase the rents charged by 1.34% for the units set out in Schedule 1.
2. The percentage increase set out in paragraph 1 is to be taken as follows:
 - a. The Landlord may increase the rents charged by 1.34% within the time period of February 1, 2024 to January 31, 2025.
3. The percentage increase set out in paragraph 1 may be taken in addition to the annual guideline in effect on the increase date for the unit.
4. The Landlord or the Tenants shall pay to the other any sum of money that is owed as a result of this order within 120 days of the date of this order.

February 12, 2026

Date Issued

Guy Savoie

Vice Chair, 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.

Important Notes:

1. The Landlord may increase the rent charged by the ordered increase within the time period specified if at least 12 months have passed since the last rent increase or since the tenant moved in, and if the landlord has given the Tenant at least 90 days proper Notice of Rent Increase.
2. If the Landlord has given a Notice of Rent Increase for a rent increase that is less than the ordered increase, the Landlord may only take the rent increase set out in the Notice.
3. If the Tenant's rent is increased pursuant to the percentage increase ordered for capital expenditures and the same Tenant remains in the unit after the expiration of the weighted useful life for capital expenditures, then the rent will be reduced. Refer to Schedule 3 for information about the date and amount of the rent reduction.
4. The annual guideline for 2023 is 2.50%, for 2024 is 2.50%, for 2025 is 2.50% and for 2026 is 2.10%.

Schedule 1 - Units affected by this Order:

369 Dean Avenue, Oshawa, Ontario, L1H 3E1

1

2

3

4

Schedule 2 - Tenants who are Affected by this Order:

Brakas, Andreas

Chater, Brent

Mei, Marisa

Schlaht, Caroline

Wheeler, Wayne

Schedule 3 - Rent Reduction related to Capital Expenditures

A. Date of Rent Reduction

If the Tenant's rent is increased based on capital expenditures during the period 2024 then:

The date of the rent reduction will be the day before:

- the date of the Tenant's first rent increase under this order, plus
- the number of years for the weighted useful life for capital expenditures for the unit (set out in this order).

Example:

If the Tenant's rent was increased on June 1, 2021 and the weighted useful life for capital expenditures is 10 years, then the rent will be reduced on May 31, 2031.

If the Tenant's rent was *not* increased based on capital expenditures during the period 2024 but was increased during the later periods set out in the order then:

The date of the rent reduction will be the day before:

- the First Effective Date of Rent Increase in this order, plus
- the number of years for the weighted useful life for capital expenditures for the unit (set out in this order).

Example:

If the first effective date of increase in this order is April 1, 2021 and the weighted useful life for capital expenditures is 10 years, then the rent will be reduced on March 31, 2031.

B. Amount of Rent Reduction

If the Tenant's rent is increased by the total percentage increase set out in this order then:

The rent must be reduced by the total percentage increase set out in this order for capital expenditures.

If the Tenant's rent is *not* increased by the total percentage increase set out in this order then:

The rent must be reduced by an amount determined in accordance with the prescribed rules which may be equal to or less than the total percentage increase set out in this order for capital expenditures.