



Order under Section 69/ 88.2 Residential Tenancies Act, 2006

Citation: Alkhrdaji v Al-Jaboori, 2026 ONLTB 12639

Date: 2026-02-20

File Number: LTB-L-068290-25

In the matter of: 5566 BROADPATH GATE
Mississauga Ontario L5M 6M4

Between: Tarek Alkhrdaji Landlords
Houda Jadi

And

Inas Al-Jaboori Tenants
Dania Al-Azzawi
Fatema Al-Azzawi

Tarek Alkhrdaji and Houda Jadi (the 'Landlords') applied for an order to terminate the tenancy and evict Inas Al-Jaboori, Dania Al-Azzawi, Fatema Al-Azzawi and Mohammed Al-Beldawi (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe. (L1 Application)

The Landlords also applied for an order to terminate the tenancy and evict the Tenants because the Tenants have been persistently late in paying the Tenants' rent. The Landlords further applied for an order requiring the Tenants to pay the Landlords' reasonable out-of-pocket expenses that are the result of the Tenant's failure to pay utility costs they were required to pay under the terms of the tenancy agreement. (L2 Application)

This application was heard by videoconference on January 8, 2026.

The Landlords and the Tenants, Inas Al-Jaboori and Dania Al-Azzawi, and the Tenants' agent Mohammed Al-Beldawi attended the hearing.

Determinations:

1. As explained below, I am satisfied the Landlords have proven their claim with respect to arrears on the L1 application, the termination of the tenancy on the L2 application along with their claim for utility costs. Therefore, the tenancy between the parties is terminated, and the Tenants will be ordered to pay the outstanding arrears and utility costs.

2. Both the L1 and the L2 applications are amended to reflect that the correct city of the rental unit is "Mississauga, Ontario". The Landlords' residence is in "Ellicott City" – a city in Maryland, USA as noted on the applications, and they inadvertently wrote "Ellicott City" as the municipality for the rental unit as well. There is no prejudice to either party from the amendment as it does not impact the validity of the notices and concerns a minor typographical error.
3. On Jan 3, 2026, the Tenants filed their claims pursuant to subsection 82(1) of the *Residential Tenancies Act, 2006* (the 'Act'). At the hearing, the Board raised a preliminary issue regarding the service of the Tenants claim to the Landlords. The Tenants agent confirmed that the Tenants did not serve the section 82 issues to the Landlords. His position was that due to the Christmas holidays, he was not able to serve on time. Since the Tenants did not serve the Landlords with these issues, and did not provide reasonable explanation as to why the Tenants could not comply with the requirements set out in 82(2) of the Act, the Board determined it will not proceed to hear these claims. The Tenants requested an adjournment so they could serve their section 82 issues to the Landlords. The Landlords opposed the adjournment and advised the arrears are substantial and it would be prejudicial to them to adjourn the matter. Considering the factors enumerated in the LTB guidelines with respect to adjournments (No.1), the Board declined the adjournment request. The Tenants had been previously advised at the hearing on October 2, 2025, to file their section 82 issues in accordance with the Board's Rules of Procedure ("*Rules*"), and they failed to do so. The arrears are substantial, and any further adjournment would be prejudicial to the Landlords.

L1 Application

4. The Landlords served the Tenants with a Notice to End Tenancy Early for Non-payment of Rent (N4 Notice) for the period of July 2025 and August 2025. The rent claimed on this notice is \$3,300.00. 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.
5. At the hearing, the Tenants' agent raised a preliminary issue, arguing that the N4 Notice issued by the Landlords was defective because it includes incorrect amounts for the rent charged and the rent owing for each of the applicable rental periods. Specifically, they submitted that the amount of rent charged in the N4 Notice reflects an illegal rent increase from \$3,000.00 to \$3,300.00 in October 2024, which was charged without the Landlords providing a valid Notice of Rent Increase (NORI).
6. I will address whether the rent increase is unlawful below. Based on the evidence adduced at the hearing, I find the N4 is invalid for reasons other than the rent being unlawful, as it

does not contain the sufficient details and particulars required under subsection 43 of the Act.

7. There is no dispute between the parties that on April 1, 2021, the tenancy agreement was between the Landlords and two of the tenants Inas Al-Jaboori and Mazin Al-Azzawi. Dania Al-Azzawi and Fatema Al-Azzawi are the children of Inas Al-Jaboori and Mazin Al-Azzawi. A copy of the lease agreement was filed with the Board, and it indicates that the term was for "one year"- which I understand to mean it was fixed term lease with an end date of March 31, 2022. The agreement further indicates that at the commencement of the tenancy, the Landlords collected \$12,000.00 from the tenants. This amount constituted a prepayment of the first month's rent, and a "last three month's rent deposit". Pursuant to subsection 106(2) of the Act, the amount of a rent deposit shall not be more than the lesser of the amount of rent for one rent period and the amount of rent for one month. Thus, the last month's rent deposit that the Landlords are lawfully entitled to collect is \$3,000.00. The remaining balance of \$9,000.00 is prepaid rent that was collected by the Landlords, out of which \$3,000.00 was used for the first month's rent, thus leaving a credit balance of \$6,000.00 ("Initial Credit Balance").
8. At some point after the tenancy had commenced, the tenant Mazin Al-Azzawi vacated the rental unit, and the other tenant Inas Al-Jaboori continued to reside in the rental unit with her children. From April 2022 to September 2024, the tenancy was a monthly tenancy.
9. On October 22, 2024, the Landlords entered into a new tenancy agreement with the Tenants. Both parties agreed the rent would be \$3,300.00 due on the 1st day of each month, commencing November 1, 2024. A copy of the lease agreement was filed with the Board, and it references that the term was for a period of "one year"- which I understand to mean it was fixed term lease with an end date of October 31, 2025. I take note that this agreement acknowledges the Landlords had previously collected the \$9,000.00 (which as reflected above, constitutes \$3,000.00 as the Last month's rent deposit, and the Initial credit Balance of \$6,000.00). It's clear from the documentary evidence that it was the intention of the parties that the last month rent deposit and the Initial Credit Balance both be transferred to this new tenancy agreement.
10. The Tenants paid the new rent to the Landlords in the amount of \$3,300.00 for a period of six months, until April 2025. The Landlords claimed that for the period of May 2025 and June 2025, they applied the credit of \$3,300.00 for the rent owing for these periods, and the "remainder" of \$2,400.00 they applied it to the rent owing for July 2025 with a balance left owing of \$900.00. The Landlords had applied a total credit of \$9,000.00 from May 2025 to July 2025.

11. In the decision of *Malva Enterprises Inc. v. Rosgate Holdings Ltd.* 1993 CanLII 8675 (ON CA), 1993 O.J. No. 1724 the Court of Appeal found:

...

With respect to the payment of rent in a landlord and tenant relationship the application of rental payments may be controlled by a direction from the tenant or the contract or custom of the parties. In the absence of any direction from the tenant as to the application of a voluntary payment as between a number of claims for rent, the landlord may ordinarily apply the payment to whichever claim he pleases. Payments made by a tenant to his landlord on account of rent in the absence of any direction by the tenant or any agreement of the parties generally may and, according to some authorities, will be applied to the extinguishment of the rents first accrued.

12. The Tenants did not provide sufficient evidence that they had directed the Landlords that the prepayment of rent was to be attributed to specific rental periods. Absent any specific direction from the Tenants, the Landlords were entitled to apply credit payments to any rental period. However, the problem is, since the Initial Credit Balance available to the Landlords to be applied for rent was only \$6,000.00, the Landlords applied \$600.00 from the Last month's rent deposit to the rental periods of May 2025 and June 2025, and then applied the "remainder" of \$2,400.00 last month's rent deposit to the period of July 2025.
13. Pursuant to subsection 106(10) of the Act, a last month's rent deposit is to be applied to the last period of the tenancy. Thus, Landlords incorrectly utilized the last month's rent deposit, and this impacts the arrears owing.
14. Since the N4 Notice is claiming arrears for the period of July 2025, and August 2025, I find that this N4 Notice is invalid as it does not contain the sufficient details and particulars to put the Tenants on notice as to the correct amount required to void and is not saved by subsection 212 of the Act.
15. There is no dispute between the parties that an N9 notice was provided to the Landlords. It was signed April 30, 2025, with a termination date of July 31, 2025. This Tenants' agent argued that since the N9 notice was signed by only one of the Tenants the notice is not valid. I agree with his position. Since not all the Tenants had signed the N9 notice to terminate the tenancy, this notice is invalid. What this means is that the Tenants obligations to pay rent did not end on July 31, 2025, and thus the Tenants are liable for any outstanding arrears owing to the Landlords.

Whether the rent increase is unlawful?

16. The Landlords claimed that in the event the Board found the N4 Notice to be invalid, they wanted an order for the arrears. This first requires determining the lawful rent.
17. The Tenants claimed the Landlords unlawfully increased the rent from \$3,000.00 to \$3,300.00. The Landlords did not provide the Tenants with a valid NORI to increase the rent to \$3,300.00, and did not increase the rent in accordance with the rent increase guidelines. The Tenants claimed they have overpaid the Landlords \$1,800.00 – which I understand to be excess rent paid for the 6-month period from November 2024 to April 2025 for the \$300.00 increased rent payment each month ($\$300.00 \times 6 = \$1,800$).
18. With respect to a rent increase, subsection 116 of the Act requires that:
 - (1) A landlord shall not increase the rent charged to a tenant for a rental unit without first giving the tenant at least 90 days written notice of the landlord's intention to do so.
 - (2) Subsection (1) applies even if the rent charged is increased in accordance with an order under s. 126.
 - (3) The notice shall be in a form approved by the Board and shall set out the landlord's intention to increase the rent and the amount of the new rent.
 - (4) An increase in rent is void if the landlord has not given the notice required by this section, and the landlord must give a new notice before the landlord can take the increase.
19. The Act requires the landlord to use a form approved by the Board because the approved form contains important information for the tenant about their rights. The Act also requires that the Landlord may not increase rent before 12-months have elapsed since the tenancy began or since the last increase.
20. Pursuant to subsection 120 of the Act, no landlord may increase the rent charged to a tenant, or to an assignee under section 95, during the term of their tenancy by more than the guideline, except in accordance with section 126 or 127 or an agreement under section 121 or 123.
21. Subsection 113 of the Act states that, subject to section 111, the lawful rent the lawful rent for the first rental period for a new tenant under a new tenancy agreement is the rent first charged to the tenant.
22. As I understand it, it is the Landlords' position that the rent increase is lawful because the parties agreed to it when they entered into a new tenancy agreement. They argue that this was a new tenancy because two new tenants were added to the agreement. The "new"

tenants in question are the other two Tenants' children who had been previously living in the unit.

23. The fact that the Landlords signed a new lease with the Tenants containing the illegal rent increase does not in itself make it lawful. The Court of Appeal for Ontario addressed this very issue in *Honsberger v. Grant Lake Forest Resources Ltd.*, 2019 ONCA 44 (*"Honsberg"*), when interpreting subsection 113 of the Act. The Court found at para 28., that while parties are free to enter into a new tenancy agreement at the expiry of their existing fixed term agreement, establishing a new tenancy where there is an existing relationship involving the same tenant, the same landlord, and the same premises, would undermine the scheme of the rent control provisions of the Act as the landlord could increase the rent simply by entering into a new tenancy agreement. The court also found that a *renewing* tenant is *not a new* tenant and determined that a tenancy agreement involving the same parties, and the same premises requires the landlord to give 90 days' notice of an increase pursuant to the clear provisions of the Act.
24. In applying the principles of *Honsberg* to the fact of this case, I find that there is no new tenancy agreement that would justify the new rental rate.
25. The existing tenant, Inas Al-Jaboori always remained a tenant. She never relinquished possession of the rental unit to the Landlords or terminated her original lease from April 2021. Furthermore, the fact that the parties agreed that the prepayment of rent and the last month rent deposit would be carried over to the newly signed lease agreement in October 2024, and the fact that the rental unit is the same, suggests more likely than not, that new agreement was more akin to an "amendment" to the original agreement, whereby the parties agreed to amend the agreement to add two additional tenants. The decision in *Honsberg* does not stand for the proposition that adding a new party to an existing tenancy agreement creates a new tenancy agreement, and to interpret it as applying *only* to situations where the existing relationship involves only the same tenant, and the same landlord is unreasonable and inconsistent with the scheme of the Act.
26. Accordingly, subsection 113 of the Act does not apply in the circumstances of this case, in that the signing of the renewal agreement did not constitute a new tenancy agreement and, therefore, the Landlords were still bound by the guideline for any rent increases, and the requirements set out in the Act with respect to increasing the rent.

27. I am mindful that pursuant to subsection 136 of the Act, rent charged one or more years earlier are deemed lawful unless an application has been made within one year after the date the amount was first charged challenging the lawfulness of the rent in the application.
28. While it may seem that subsection 136 of the Act validates the Landlords' increase in rent, this subsection must be read in conjunction with the Court of Appeal decision in *Price v. Turnbull's Grove Inc.*, 2007 ONCA 408 ('Price'). The decision in *Price* concerned a landlord's application for arrears in rent and is about the interplay between section 116(4) of the Act that renders rent increases void if the landlord has not provided the notice required by that section and section 136 of the Act. It should be noted that *Price* was issued while the predecessor legislation, the *Tenant Protection Act, 1997*, was in effect, however the sections considered and interpreted by the Court are identical to subsections 116 and 136 of the Act. In *Price*, the Court interpreted "void" in s. 116(4) to mean void ab initio, a legal nullity, as if it did not exist. The Court concluded that a notice that is "void" cannot be cured by section 136 because you cannot cure something that does not exist.
29. Since the Landlords did not provide the Tenants with a valid 90-day NORI, the rent increase is "void" as per subsection 116(4) of the Act. This means the increase in rent to \$3,300.00 does not exist in law, and it is not saved under subsection 136 of the Act.
30. Accordingly, the lawful rent is, \$3,000.00.

What are the Rent arrears?

31. To calculate the arrears owing to the Landlords, it is important to first establish the *Total Credit Balance* to the Tenants, not including the last month's rent deposit. Since the Tenants paid excess rent from November 2024 to April 2025 for the \$300.00 increased rent payments each month ($\$300.00 \times 6 = \$1,800$), they are in a credit balance of this amount as well.
32. Adding this value of \$1,800.00, to the Initial Credit Balance, equates to \$7,800.00. Since the lawful rent is \$3,000.00, the Landlords were entitled to credit this amount from May 2025 onwards.
33. Since the Landlords claim arrears on their application commencing from July 1, 2025, to August 31, 2025, the credit in the amount of \$3,000.00 will be applied to May 2025, and

another \$3,000.00 for June 2025, which leaves a balance of \$1,800.00 ("Total Credit Balance").

34. The Total Credit Balance is be applied to the rent arrears owing for the period of July 2025. Thus, the amount owing for July 2025 is calculated is follows: $\$3,000.00 - \$1,800.00$ (Total Credit Balance) = \$1,200.00.

35. Accordingly, the application is amended to reflect:

- a. The lawful rent is \$3,000.00.
- b. the Landlords collected a last month rent deposit in the amount of \$3,000.00 on April 1, 2021.
- c. The arrears owing for the period of July 2025 is \$1,200.00.
- d. The arrears owing for August 2025 is \$1,800.00 (calculated as \$3,000 lawful rent less the payment made by the Tenants in the amount \$1,200.00 - as originally noted on the application, and this equates to \$1,800.00)
- e. The total arrears owing on the application from the period of July 1, 2025, to August 31, 2025, is \$3,000.00 (\$1,800.00 + \$1,200.00).

36. As of the hearing date, the Tenants were still in possession of the rental unit.

37. The lawful rent is \$3,000.00. It is due on the 1st day of each month.

38. Based on the Monthly rent, the daily rent/compensation is \$98.63. This amount is calculated as follows: $\$3,000.00 \times 12$, divided by 365 days.

39. The Tenants paid \$2,000.00 to the Landlords since the application was filed.

40. The rent arrears owing to January 31, 2026, are \$16,000.00. However, since the tenancy is being terminated pursuant to the L2 application as explained below, the arrears ordered will be calculated to the date of the hearing.

41. The Landlords incurred costs of \$186.00 for filing the application and are entitled to reimbursement of those costs.
42. As explained above, the Landlords collected a rent deposit of \$3,000.00 from the Tenants. Interest on the rent deposit, in the amount of \$309.85 is owing to the Tenants for the period from April 1, 2021, to January 8, 2026. Both the rent deposit and interest the Landlords owe on the rent deposit will be deducted from the amount of arrears owing by the Tenants.

L2 Application

43. On August 9, 2025, the Landlords gave the Tenants an N8 Notice of termination. This notice of termination alleges that the Tenants have been persistently late in paying the rent during the period from November 2024 to August 2025. An N8 notice is focused on the degree of the late payments.
44. This notice states the rent was \$3,300.00 due on the 1st of the month. However, since the lawful rent is \$3,000.00 due on the 1st of the month as noted above, determinations with respect this notice are made as to the degree of late payments made to the Landlords and whether the full \$3,000.00 was paid on time and in full to the Landlords.
45. The notice indicates that for the period of November 2024, rent (in the amount of \$3,300.00) was paid late on November 4, 2024. For December 2024 rent, a payment was made on December 2, 2024, in the amount of \$2,000.00, and another payment in the amount of \$1,000.00, on December 13, 2024.
46. Rent for the period of January, February and March 2025, were made on January 6, 2025, February 3, 2025, and March 3, 2025, respectively. The amounts paid for 2025 were \$3,300. No rent for the period of August 2025 has been paid.
47. The N8 notice outlines for each month when the late payments were made by the Tenants, and the amount of the payment.
48. Based on the evidence adduced at the hearing, I am satisfied that the Tenants have persistently failed to pay the rent in the amount of \$3,000.00 on the date it was due. The rent is due on the 1st day of each month. The Tenants have paid their rent of \$3,000.00

late six times from November 2024 to August 2025. These months are, November 2024, December 2024, January – March 2025. August 2025 rent has also not been paid in full and on time, thus it constitutes late payment. The Tenants did not seriously challenge the evidence provided by the Landlords of the late payments. Thus, I accept the Landlords' evidence pertaining to the late payments.

Utility costs

49. The Landlords claim utility costs in the amount of \$442.28. The Landlords did not serve their documentary evidence to the Tenants in accordance with the *Rules*. The Landlords claimed they served their evidence to the Tenants via email. Rule 3.1 of the *Rules* states that a document may be served on a party by email if the person or party receiving it has consented in writing to service by email. The Landlords did not provide sufficient evidence of consent to email service. However, the Tenants agent claimed that Landlords disclosure was received by email and the portal, and further added that the issue of the Landlords seeking costs for the utility bills was “not an issue” for the Tenants. Based on the submission of the Tenants' agent, the Board was satisfied on a balance of probabilities, that the Landlords' disclosure had come to the Tenants' attention pursuant to subsection 191(2) of the Act.

50. The lease agreement dated October 22, 2024, confirms the Tenants are responsible for utilities (electricity heat, and water). The Landlords supported their claim for utility costs with documentary evidence of water bills dated April 23, 2025, and July 23, 2025. The Tenants did not seriously challenge the evidence provided by the Landlords. Thus, I am satisfied that the Landlords have proven their claim for reasonable out-of-pocket expenses that the Landlords have or will incur because of the Tenants failure to pay utility costs that they were required to pay under the terms of the tenancy agreement.

Relief from Eviction

51. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. The Tenants' agent advised that that Fatema Al-Azzawi started work in December 2025 at TD Bank. Inas Al-Jaboori is currently looking for employment but is training in a clinic as an Aesthetician. Dania Al-Azzawi has started school at Oxford College and has started her own cooking business from home. The Tenants' agent also claimed that the Tenants would be able to pay the outstanding arrears in the amount of \$1,000 on top of the rent. The Tenants' monthly expenses equate to approximately \$2,665.00. The Tenants have a 15-year-old occupant (Tabarak) who resides with them and attends high school and is the child of Inas Al-Jaboori. The Tenant, Inas Al-Jaboori receives approximately \$730.00 for child support.

52. The Tenants' agent also claimed that the Tenants have applied for government housing. Due to the delay in processing applications as advised by the caseworker of approximately 4-8 months, he requested that eviction be postponed to July 2026.
53. The Landlords claimed that they have two mortgages, and the mortgage payments on the rental unit are higher than the rent. The Landlords stated that they are experiencing financial hardship and have been using their savings to meet their monthly expenses. However, they are not able to meet their expenses anymore because they have two children (17 and 20 years old) who are about to start college, and they will experience added financial burden. The Landlords' claimed they are at risk of losing the rental unit (which I understand to mean via foreclosure or power of sale). They also claimed that the Tenants have not provided sufficient evidence to establish that the tenancy is viable.
54. Considering all the circumstances, I find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. The Tenants did not provide sufficient documentary evidence to corroborate that one of the Tenants is employed, and that the Tenants have started their own cooking business or are training at a clinic. Neither did the Tenants call as a witness the caseworker/person with whom the Tenants had a conversation with or provide written confirmation that they have applied for government housing. This is evidence I would have reasonably expected the Tenants to adduce in support of their claims. Thus, I place little weight on their general assertions. The Tenants also did not provide sufficient evidence about whether they would be able to pay the rent on time and in full when it is due going forward. The Landlords claim they are experiencing financial hardship. I accept this claim given that the amount of the arrears is substantial. Ultimately, I am not satisfied that the tenancy is viable.

It is ordered that:

1. Pursuant to the L2 Application, the tenancy between the Landlords and the Tenants is terminated. The Tenants must move out of the rental unit on or before March 3, 2026.
2. Pursuant to the L1 Application, the Tenants shall pay the Landlords \$10,665.19. This includes rent arrears owing up to the date of the hearing and the cost of filing the application. The rent deposit and interest the Landlords owe on the rent deposit are deducted from the amount owing by the Tenants.
3. The Tenants shall also pay the Landlords compensation of \$98.63 per day for the use of the unit starting January 9, 2026, until the date the Tenants move out of the unit.
4. The Tenants shall also pay to the Landlords \$442.28, which represents the reasonable out-of-pocket expenses the Landlords has incurred or will incur as a result of the unpaid utility costs.

5. If the Tenants do not pay the Landlords the full amount owing on or before March 3, 2026, the Tenants will start to owe interest. This will be simple interest calculated from March 4, 2026, at 4.00% annually on the balance outstanding.
6. If the unit is not vacated on or before March 3, 2026, then starting March 4, 2026, the Landlords may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
7. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlords on or after March 4, 2026.

February 20, 2026
Date Issued

Inderdeep Padda
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 4, 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.