Order under Section 69
Residential Tenancies Act, 2006

File Number: LTB-L-033659-23

In the matter of:	303, 191 St. George St. Toronto ON M5R2M6	
Between:	Aplomb Properties Inc.	Landlord
	And	
	Richard Pizale	Tenant

Aplomb Properties Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Richard Pizale (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on February 11, 2026.

The Landlord's agent, Abraham Litwin-Logan, the Tenant's Legal Representative, Reginald Bent, and the Tenant attended the hearing.

Preliminary Issue:

1. At the outset of the hearing, the Landlord raised a preliminary issue. The Landlord submitted that the Tenant did not comply with the Board's interim order, LTB-L-033659-23-IN, dated April 4, 2025, because the Tenant failed to pay the rent for October 2025 and November 2025, January and February 2026 rent on time. The Landlord submitted that the interim order required the Tenant to continue paying the monthly rent in full and on time, but the Tenant paid the rent for those four months on February 10, 2026, and therefore the Board should not accept the Tenant's evidence or submissions or permit the Tenant to raise an issue under section 82.
2. The Tenant submitted that the late payments were due to an unexpected family circumstance. The Tenant testified that his mother, who is 100 years old, suffered a stroke in September 2025. The Tenant stated that he experienced difficulties caring for his mother and had cash flow challenges. The Tenant also stated that he paid all outstanding rent before the hearing date.
3. Based on the submissions, I am satisfied that the late payments of rent resulted from the Tenant's unexpected family circumstances. I am also satisfied that the Tenant made a genuine effort to comply with the interim order and that the arrears were paid before the

hearing. In these circumstances, I find that the Tenant has complied with the interim order, LTB-L-033659-23-IN. The Landlord's preliminary issue is denied, and the matter will proceed on its merits.

Determination:

L1 Application—Non-payment of Rent

4. 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.
5. As of the hearing date, the Tenant was still in possession of the rental unit.
6. The lawful rent is $1,557.91. It is due on the 1st day of each month.
7. Based on the Monthly rent, the daily rent/compensation is $51.22. This amount is calculated as follows: $1,557.91 x 12, divided by 365 days.
8. The Tenant has paid $16,902.38 to the Landlord since the application was filed.
9. The rent arrears owing to February 28, 2026, are $35,427.00. There was no dispute about the total arrears.
10. The Landlord incurred costs of $186.00 for filing the application and is entitled to reimbursement of those costs.
11. The Landlord clarified that any NSF claims were withdrawn.

Tenant's Section 82 Issues:

Maintenance and Repair Claims:

12. The Tenant alleges that the Landlord breached subsection 20(1) of the *Residential Tenancies Act, 2006* (the Act) with respect to the following issues: the kitchen sink faucet, the air conditioner installation, the parquet flooring replacement, and the balcony condition.

Kitchen Sink Faucet:

13. The Tenant testified that the kitchen sink faucet completely detached from the countertop, leaving a large hole where the faucet had been installed. As a result, he had no access to water in the kitchen. The Tenant stated that he reported the issue to the Landlord in November 2023. The Landlord inspected the unit on November 23, 2023, and was fully aware of the damage at that time. The Tenant testified that the faucet was not repaired after that inspection and that he was unable to use the kitchen because there was no water available. He stated that he relocated to a different place in November 2023 as a result of the condition.

14. The Tenant further testified that he contacted the City by law office in March 2025 to complain about the outstanding repair. The City inspected the unit and issued a Property Standards Order on March 18, 2025, requiring the Landlord to complete the repair. The Tenant stated that the repair work was completed by April 17, 2025.

15. The Tenant submitted photographs of the damaged faucet, a copy of the City's order, and a letter dated November 23, 2023, from the Landlord confirming receipt of the maintenance request.

16. The Landlord testified that maintenance requests were submitted on November 23 and 24, 2023 and that a notice of entry was issued to inspect the unit. Following inspection, the Landlord formed the view that the damage to the faucet and countertop appeared intentional and may have been caused by unauthorized occupants previously residing in the unit.

17. The Landlord further testified that attempts were made in December 2023 to complete the repair, but the unit did not have hydro connected. The Landlord stated that power was required to operate tools and to ensure proper lighting for the safety of repair technicians. Letters dated December 15 and December 28, 2023, were sent requesting that the Tenant reconnect hydro so that repairs could be completed. The Landlord testified that no confirmation was received that hydro had been restored.

18. It was not disputed that the hydro had been disconnected because the Tenant failed to pay the utility provider. During cross examination, the Tenant acknowledged that he did not pay for hydro because he was no longer residing in the unit due to the lack of water. The Tenant testified that hydro was not reconnected until March or April 2025.

19. On March 18, 2025, the City issued a Property Standards Order requiring the faucet to be repaired or replaced. The Landlord completed the countertop replacement and faucet repair on March 22, 2025. The Landlord testified that the repair was carried out using an external power source and under limited lighting conditions following direction from management.

20. Subsection 20(1) of the Act states:

    A landlord is responsible for providing and maintaining a residential complex, including the rental units in it, in a good state of repair and fit for habitation and for complying with health, safety, housing and maintenance standards.

21. Based on the evidence before me, I am satisfied on a balance of probabilities that the Landlord failed to take reasonable steps to address the kitchen faucet issue in a timely and effective manner. The Landlord was aware of the issue as of November 23, 2023, and the repair was not completed until April 17, 2025.

22. The Landlord argued that the Tenant prevented the repair because he failed to reconnect hydro in the unit. However, the evidence establishes that the Landlord ultimately completed the repair in March 2025 using an external power source, even though hydro in the unit had not been restored for much of the relevant period. There is insufficient explanation as to why alternative arrangements could not have been made earlier. I am therefore not

satisfied that the lack of hydro prevented the Landlord from fulfilling its obligation under subsection 20(1) of the Act.

23. Given all of the above I am satisfied that the Tenant is entitled to abatement of the rent as a remedy.

24. Abatement is a contractual remedy intended to reflect that if a tenant is paying rent for a bundle of goods and services and is not receiving everything being paid for, the tenant is entitled to an abatement proportional to the difference between what is being paid for and what is being received.

25. With respect to quantum, the Tenant seeks an abatement of 40% of the rent for the period from November 23, 2023, to April 17, 2025. The Tenant stated that due to the lack of water in the kitchen, he was not able to use the entire kitchen during that period.

26. Because abatement reflects a reduction in the value of a rental unit caused by a landlord's breach, the impact on the Tenant is one of the factors to be considered. However, as abatement is a contractual remedy, a tenant with a particular sensitivity to a problem should not receive a greater abatement than the average tenant unless the landlord knew or ought to have known about that sensitivity prior to the commencement of the tenancy. That is not the case here.

27. The rental unit is an apartment consisting of a bedroom, kitchen, bathroom, living room, and balcony. I find that the Tenant is entitled to an abatement; however, 40% is excessive. While the Tenant was unable to use the kitchen sink, which affected his ability to use the kitchen fully, he did not establish that he was unable to use other kitchen facilities such as the stove, oven, microwave, refrigerator, or cabinets. I am therefore not satisfied on a balance of probabilities that the faucet issue rendered the entire kitchen unusable. In the circumstances, I find that a reasonable abatement is 20% of the rent for the relevant period.

28. Based on the monthly rent of $1,452.36 in 2023, $1,488.66 in 2024, and $1,525.84 in 2025, the total abatement for the kitchen faucet issue is $4,996.95.

Air Conditioner installation

29. The Tenant testified that the wall mounted air conditioner was improperly installed. He stated that the outer sleeve of the unit was not adequately protected from weather conditions and that the unit was installed through the wall rather than through a window. According to the Tenant, this resulted in a significant unsealed gap between the air conditioner and the surrounding wall. He testified that the gap allowed cold air to escape and hot, humid air to enter the unit. The Tenant stated that he was unable to remain in the rental unit during the winter months due to this condition. He further testified that the Landlord was notified of the issue by November 23, 2023, but did not complete any repair until the City issued an order in March 2025.

30. The Landlord's position is that the issue related to the Tenant's own air conditioner, specifically the seal. The Landlord disputed that there was any crack or structural defect in the wall requiring repair. The Landlord testified that any airflow resulted from the Tenant's air conditioner being improperly installed or having a defective seal. The Landlord further

testified that, notwithstanding its position, exterior material was applied in March 2025 to provide additional blockage to airflow.

31. Photographs showing the gap between the air conditioner and the wall were submitted at the hearing. The City's order also indicated that there were noticeable gaps around the wall where the air conditioner was installed.

32. Based on the evidence before me, I find on a balance of probabilities that there was a gap between the air conditioner and the wall, and that airflow was occurring through that area. Regardless of whether the air conditioner itself belonged to the Tenant, the Landlord remains responsible for ensuring that exterior walls are properly sealed and maintained in a good state of repair. I therefore find that the Landlord breached its obligation under subsection 20(1) of the Act.

33. In the circumstances, I find that the Tenant is entitled to a rent abatement of 5% from December 2023 to April 17, 2025. Based on the applicable monthly rent during that period, the total abatement for this issue is $1,232.84.

Parquet Flooring:

34. The Tenant testified that the living room parquet flooring was damaged due to water leaking from the air conditioner. He stated that the flooring lifted and was subsequently repaired by the Landlord. However, the replacement flooring differed in colour from the surrounding area. The Tenant acknowledged that the colour difference did not raise any safety or health concerns but stated that it was visually unattractive.

35. The Tenant did not provide evidence demonstrating that he was unable to use the affected area of the floor during the relevant period.

36. Based on the evidence before me, I accept that there is a visible difference in colour between the replaced parquet flooring and the surrounding flooring. However, I find that the impact on the Tenant was minimal and did not materially interfere with the use or enjoyment of the rental unit. Accordingly, I am not satisfied that this issue warrants any rent abatement.

Unsafe Balcony:

37. The Tenant testified that the balcony was unsafe due to deteriorating cement, loose bolts, and a loose panel. The Tenant stated that his five-year-old grandson was able to place his foot between the balcony railing and the balcony floor, which raised safety concerns. The Tenant testified that the Landlord did not repair the balcony until the City issued an order in April 2025

38. The Landlord testified that balcony repairs were first scheduled for December 15, 2023, but were cancelled by the Tenant at the last minute. The repair was rescheduled for December 22, 2023. The Landlord's contractor attended on that date and completed repairs, including securing the balcony panel, drilling through the existing base plate, and installing additional anchors and screws to ensure that the panel was flush and secure.

39. The Landlord stated that no further complaints regarding the balcony were received after December 2023 until the Property Standards Order was issued in March 2025. Upon receipt of that Order, the Landlord scheduled additional balcony repairs, which were completed in early April 2025. The Landlord testified that the condition giving rise to the 2025 order was not known prior to the inspection and that it was unclear how the subsequent issue arose.

40. The Landlord submitted the invoice for the balcony repairs dated December 23, 2023, and photographs of the balcony condition in April 2025.

41. In *Onyskiw v. CJM Property Management Ltd.*, 2016 ONCA 477, the Court of Appeal held that the LTB should take a contextual approach and consider the entirety of the factual situation in determining whether there was a breach of the landlord's maintenance obligations, including whether the landlord responded to the maintenance issue reasonably in the circumstances. The court rejected the submission that a landlord is automatically in breach of its maintenance obligation as soon as an interruption in service occurs.

42. Based on the evidence before me, I am not satisfied that the Landlord breached its maintenance obligations in relation to the balcony. The evidence establishes that the Landlord arranged for repairs within approximately two weeks of the initial complaint in December 2023 and completed the work within a reasonable time. There is no persuasive evidence that further safety concerns were raised between December 2023 and March 2025. The Tenant acknowledged that he was not residing in the unit during much of the relevant period and did not provide evidence demonstrating ongoing unsafe conditions after the December 2023 repair.

43. I am satisfied that the Landlord took reasonable steps to address the balcony concerns in December 2023, complied with the City's order in March 2025, and completed additional repairs promptly thereafter. Applying *Onyskiw*, I find that the Landlord's response was timely and reasonable in the circumstances and that there was no breach of subsection 20(1) of the Act. This claim is therefore denied.

44. The Tenant is entitled to an abatement of rent of $6,229.79 ($4,996.954+ $1,232.836). This amount will be deducted from the amount owing to the Landlord.

45. The Landlord collected a rent deposit of $1,525.87 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.

46. Interest on the rent deposit, in the amount of $134.28 is owing to the Tenant for the period from July 1, 2022, to February 11, 2026.

S.83(3) mandatory Denial of Eviction:

47. Subsection 83(3)(a) of the Act provides that the Board shall refuse to grant the application where satisfied that the landlord is in serious breach of the landlord's responsibilities under this Act or of any material covenant in the tenancy agreement.

48. The Act does not define "serious breach".

49. The leading case of the Divisional Court which outlines the test for a "serious breach" is *Puterbough v. Canada Public Works and Government Services [2005] O.J. No 5727*. In that case, the court interpreted a "serious breach" in the context of a landlord's statutory duty to repair and maintain the rental unit. At paragraph 22, the Court stated that a "serious breach", in the context of the Landlord's maintenance responsibilities:

    Means more than the rental premises being in a poor condition and in need of significant work…In short, a serious breach of the landlord's responsibilities is not established simply by the rental premise being in need of extensive repairs.

50. When addressing a tenant's arguments pertaining to the landlord's alleged breaches in that case, the Court went on to state: "*To accept the Tenant's argument that all breaches of the Landlord's responsibilities that raise health and safety concerns trigger subsection 83(3)(a) of the Act would render meaningless the word 'serious' in that subsection*."

51. In *Puterbough*, the Court held that the wording of subsection 83(3)(a) of the Act is in the present tense meaning that the serious breach must be ongoing at the time of the hearing before the Board, not in the past or potentially in the future, and the onus is on the Tenants to prove this.

52. The Tenant's submissions in this matter relate to maintenance concerns and alleged losses arising from those concerns. The Tenant acknowledged that the repairs were completed in April 2025 and that he returned to the rental unit thereafter. The Tenant did not provide evidence of any serious and ongoing maintenance or service issues at the time of the hearing.

53. Although I have found that the Landlord breached subsection 20(1) of the Act in relation to certain issues and have awarded a rent abatement, that finding does not automatically establish a serious breach for the purposes of subsection 83(3)(a). The Tenant bears the burden of proving that the breach was serious and ongoing at the time of the hearing.

54. This finding does not preclude the Tenant from pursuing any separate maintenance claims against the Landlord. My determination is limited to the application of subsection 83(3)(a) in the context of this eviction proceeding.

55. Accordingly, the Landlord's L1 application is not refused under subsection 83(3)(a) of the Act.

<u>Relief from Eviction:</u>

56. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including whether the Landlord attempted to negotiate a repayment agreement with the Tenant and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

57. The Tenant testified that he is 74 years old and has a limited income of approximately $2,500.00 per month. He stated that his monthly expenses are approximately $2,000.00. The Tenant proposed a payment plan to address the rent arrears and stated that he could borrow money from his mother or other family members to assist with payment. However,

the Tenant did not provide a reliable or practical repayment plan supported by sufficient detail to satisfy me that the arrears would be addressed within a reasonable time.

58. The Landlord submitted that further delay would cause significant prejudice given the substantial arrears outstanding. The Landlord testified that rental income is relied upon to maintain the property and fund capital projects and that the arrears have already caused financial hardship.

59. In my view, the tenancy is no longer viable. The Tenant has not demonstrated a realistic ability to pay both the ongoing rent and the accumulated arrears. A delay in eviction would be unfair to the Landlord and would likely result in further accumulation of arrears that may not be recoverable.

60. Although this order does not specifically address each piece of evidence individually or reference all of the testimony, I have considered all of the evidence presented at the hearing and all of the oral testimony when making my determinations.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.

2. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**

   - $29,383.21 if the payment is made on or before February 28, 2026. See Schedule 1 for the calculation of the amount owing.

     OR

   - $30,941.12 if the payment is made on or before March 3, 2026. See Schedule 1 for the calculation of the amount owing.

3. 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 March 3, 2026, but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.

4. **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 March 3, 2026.**

5. If the Tenant does not void the order, the Tenant shall pay to the Landlord $26,728.57. 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 and the rent abatement/rebate awarded to the Tenant are deducted from the amount owing by the Tenant. See Schedule 1 for the calculation of the amount owing.

6. The Tenant shall also pay the Landlord compensation of $51.22 per day for the use of the unit starting February 12, 2026, until the date the Tenant moves out of the unit.

7. If the Tenant does not pay the Landlord the full amount owing on or before March 3, 2026, the Tenant will start to owe interest. This will be simple interest calculated from March 4, 2026, at 4.00% annually on the balance outstanding.

8. If the unit is not vacated on or before March 3, 2026, then starting March 4, 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 March 4, 2026.

February 20, 2026
Date Issued

Joy Xiao
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.

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 28, 2026

Rent Owing To February 28, 2026	$52,329.38
Application Filing Fee	$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- $16,902.38
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- $6,229.79
Total the Tenant must pay to continue the tenancy	**$29,383.21**

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before March 3, 2026

Rent Owing To March 31, 2026	$53,887.29
Application Filing Fee	$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- $16,902.38
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- $6,229.79
Total the Tenant must pay to continue the tenancy	**$30,941.12**

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

Rent Owing To Hearing Date	$51,334.89
Application Filing Fee	$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- $16,902.38
Less the amount of the last month's rent deposit	- $1,525.87
Less the amount of the interest on the last month's rent deposit	- $134.28
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- $6,229.79
Total amount owing to the Landlord	**$26,728.57**
Plus daily compensation owing for each day of occupation starting February 12, 2026 **Ongoing daily compensation continues to accumulate until the total amount owing (excluding costs) is $50,000.00.	$51.22 (per day)