



**Order under Sections 69 / 88.1
Residential Tenancies Act, 2006**

Citation: Xu v FERREIRA, 2026 ONLTB 19171

Date: 2026-03-06

File Number: LTB-L-079099-25

In the matter of: Basement, 977 MOUNTCASTLE CRES
PICKERING ON L1V5J3

Between: Duo Xu Landlord

And

FERNANDO GEORGE FERREIRA Tenant

Duo Xu (the 'Landlord') applied for an order to terminate the tenancy and evict FERNANDO GEORGE FERREIRA (the 'Tenant') because:

- the Tenant did not pay the rent that the Tenant owes (L1 Application); and
- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant (L2 Application).

The Landlord also applied for an order requiring the Tenant to pay the Landlord's reasonable out-of-pocket expenses that are the result of the Tenant's conduct or that of another occupant of the rental unit or someone the Tenant permitted in the residential complex. The Landlord alleges that this conduct substantially interfered with the Landlord's reasonable enjoyment of the residential complex or another lawful right, privilege or interest.

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

Only the Landlord and the Landlord's legal representative Yan Li attended the hearing.

As of 10:45 a.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:**L1 Application – Non-Payment of Rent**

1. 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.
2. As of the hearing date, the Tenant was still in possession of the rental unit.
3. The lawful rent is \$1,650.00. It is due on the 5th day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$54.25. This amount is calculated as follows: \$1,650.00 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to February 4, 2026 are \$12,500.00.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlord collected a rent deposit of \$1,650.00 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.

L2 Application

9. On July 14, 2025, the Landlord gave the Tenant a first, voidable N5 notice of termination (the 'First N5'). The First N5 alleges that the Tenant has been using a sliding glass door and the backyard of the residential complex (despite use of neither amenity being permitted in the rental agreement), smoking in the rental unit (despite smoking being prohibited in the rental agreement), and harassing the Landlord and Landlord's legal representative via text message and gestures made to security cameras. Therefore, the Landlord was allowed to give the Tenant a second, non-voidable N5 notice of termination under section 68 of the *Residential Tenancies Act, 2006* (Act).
10. On August 16, 2025, the Landlord gave the Tenant a second N5 notice of termination (the 'Second N5'). The Second N5 contains the following allegations:
 - The Tenant has continued to regularly use an unauthorized entrance into the rental unit and the backyard of the residential complex since the First N5 was issued.
 - The Tenant has continued to smoke in the rental unit on a regular basis since the First N5 was issued.
 - The Tenant has continued to make obscene hand gestures to the security cameras of the residential complex with the intent of harassing the Landlord.

11. I am satisfied, on a balance of probabilities, that the Tenant has substantially interfered with the Landlord's reasonable enjoyment of the residential complex.
12. The residential complex is a single-family home divided into two units. The Tenant lives in the basement unit, while the Landlord and his family live upstairs. Given the proximity between the units, the Tenant's conduct has a direct effect on the Landlord.
13. There is no written rental agreement between the parties. Rather, the tenancy is based on an oral agreement between the parties. The Landlord testified at the hearing about the terms of that agreement. He testified that the Tenant agreed not to use the large sliding door at the rear of the residential complex as a safety precaution because the building backs onto a ravine populated by wolves. He also testified that the Tenant agreed not to smoke in the rental unit or at the residential complex because the Landlord's wife has medical conditions which render her particularly vulnerable to second-hand smoke. Medical documentation to that effect was provided at the hearing.
14. I found the Landlord's testimony about the terms of the verbal agreement to be credible and reliable. In the absence of contrary evidence presented by the Tenant – who did not attend the hearing – I am satisfied that the terms described by the Landlord are accurate. The Landlord gave reasonable explanations for the terms which are supported by the documentary evidence he provided.
15. The Landlord provided ample photographic and video evidence showing the behaviour described in the Second N5 notice. There are many time-stamped images of the Tenant doing precisely what is described in the notice: using the sliding door, smoking beside the door, pouring out dozens of cigarette butts (presumably evidence of smoking inside the rental unit) and making obscene gestures towards the security camera. However, the bulk of these images post-date the Second N5 notice being issued.
16. That said, the Landlord testified that the activities depicted in the photos and videos are representative of the Tenant's conduct throughout the tenancy. I found this testimony to be highly credible and find it more likely than not that the activities depicted in the evidence provided by the Landlord are a continuation of the conduct described in the First and Second N5, rather than new conduct.
17. I am satisfied that the Tenant's conduct substantially interferes with the Landlord's reasonable enjoyment of the residential complex. The Landlord testified that the Tenant's conduct has made him feel uncomfortable in his own home and the medical impacts of the second-hand smoke coming from the Tenant's unit have been established by the evidence presented at the hearing.

Relief from Eviction

18. 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.

19. The Landlord was unaware of any circumstances that would warrant the granting of relief from eviction in this case.
20. The evidence presented by the Landlord shows that the Tenant has been persistent in his unreasonable conduct, even after being served two legal notices about his behaviour. I do not believe, based on the evidence presented, that the Tenant would abide by a conditional order and therefore am not granting relief from eviction in relation to the L2 Application. It would be unfair to the Landlord in this case to allow the tenancy to continue on a conditional basis.

Section 88.1 Claim

21. The Landlord withdrew his claim for compensation under section 88.1 at the hearing.

It is ordered that:

1. Pursuant to the L2 Application, the tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before March 17, 2026.
2. The Tenant shall pay the Landlord any rent arrears owing up to the date of the hearing and the cost of filing the application. The amount of the rent deposit and interest the Landlord owes on the rent deposit are deducted from the amount owing by the Tenant.
3. As of the date of the hearing, the Tenant owes the Landlord \$8,138.25. See Schedule 1 for the calculation of the amount owing.
4. The Tenant shall also pay the Landlord compensation of \$54.25 per day for the use of the unit starting January 9, 2026 to the date the Tenant moves out of the unit.
5. If the Tenant does not pay the Landlord the full amount owing on or before March 17, 2026, the Tenant will start to owe interest. This will be simple interest calculated from March 18, 2026 at 4.00% annually on the balance outstanding.
6. If the unit is not vacated on or before March 17, 2026, then starting March 18, 2026, the Landlord 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 Landlord on or after March 18, 2026.
8. The claim under section 88.1 is withdrawn.

March 6, 2026
Date Issued

Jeremy Henderson
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 of the Tenant expires on September 18, 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 as the tenancy is terminated

Rent Owing To January 8, 2026	\$9,602.25
Application Filing Fee	\$186.00
Less the amount of the last month's rent deposit	-\$1,650.00
Total amount owing to the Landlord	\$8,138.25
Plus daily compensation owing for each day of occupation starting January 9, 2026	\$54.25 (per day)