



**Order under Section 69 / 88.2
Residential Tenancies Act, 2006**

Citation: BLACK v RHODEN, 2026 ONLTB 20583

Date: 2026-03-11

File Number: LTB-L-098356-25

In the matter of: MAIN FLOOR and SECOND FLOOR, 618
OLD WESTON RD
TORONTO ON M6N3B3

Between: DUDLEY BLACK Landlord

And

BARBARA RHODEN Tenants
LEON RHODEN

DUDLEY BLACK (the 'Landlord') applied for an order to terminate the tenancy and evict BARBARA RHODEN and LEON RHODEN (the 'Tenants') because:

- the Tenants, another occupant of the rental unit or someone the Tenants permitted in the residential complex have substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another Tenant.

DUDLEY BLACK (the 'Landlord') also applied for an order requiring BARBARA RHODEN and LEON RHODEN (the 'Tenants') to pay the Landlord's reasonable out-of-pocket expenses that are the result of the Tenants' failure to pay utility costs they were required to pay under the terms of the tenancy agreement.

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

The Landlord, the Landlord's support person, Tarry Woroniuk, the Landlord's Legal Representative, Berkan Altun, and the Tenant, Leon Rhoden, attended the hearing.

I have considered all of the evidence presented at the hearing and all of the oral testimony, and although I may not have referred to each piece of evidence individually or referenced all of the testimony, I have considered it when making my determinations.

Determinations:

Preliminary Issue:

Amending the Application:

1. At the hearing, the Landlord requested to amend the application to include the most recent unpaid utility bill totaling an additional \$1,031.58.
2. When asked if the most recent bill and amended application had been served upon the Tenants, the Landlord's Legal Representative replied the Tenants were served with a copy of the amended application by email on February 5, 2026 and via mail deemed served on February 10, 2026. A copy of the bill was included with the Landlord's disclosure served in accordance with the Board's Rules of Procedure. The Tenant disputed service of the documents stating he never received them, though the correct mailing address was used and the Tenant confirmed the email address they were sent to was also correct. Given that the Landlord served the documents in accordance with Rule 3 of the Board's Rules of Procedure and s. 191(1) of the Act, and there was insufficient evidence presented to challenge the credibility of the Landlord's service, I am satisfied on the balance of probabilities that the service of the amended application and the most recent water bill was valid.
3. In accordance with Rule 15.4 of the Board's Rules of Procedure, I find it reasonable and appropriate in the circumstances to amend the application to include the most recent utility bill. I am satisfied the Landlord served the bill and amended application upon the Tenants, and the Tenants were consequently made aware of the updated total the Landlord would be claiming at the hearing. The application was thus amended to include the updated amount.

Service of N5 Notice:

4. The Tenant also disputed ever receiving the N5 notice of termination. The Landlord submitted that the N5 notice was served by handing the notice to an adult at the unit on October 25, 2025. The Tenant confirmed that although he does not live in the unit full-time anymore, he comes by at the end of the month to pick up the mail and collect the rent. Given that the Landlord served the N5 notice in accordance with the Board's Rules of Procedure and the Act, and there was insufficient evidence presented to challenge the credibility of the Landlord's service, I am satisfied on the balance of probabilities that the service of the N5 notice was valid.

L2 Application:

5. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation in the application. However, having considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* ('Act'), I find that it would not be unfair to grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.
6. The Tenants were in possession of the rental unit on the date the application was filed.
7. On October 25, 2025, the Landlord gave the Tenants an N5 notice of termination, deemed served that same day. The notice of termination alleges that the Tenants have not paid

Toronto Water & Solid Waste Management Services invoices dated from January 30, 2023 to September 15, 2025, for a total outstanding balance of \$5,932.21. Some of the unpaid invoices were then transferred to the Landlord's property tax account.

8. The Tenant confirmed that they did not stop the conduct or correct the omission within seven days after receiving the N5 notice of termination, as they have not paid the outstanding utility balance. Therefore, the Tenants did not void the N5 notice of termination in accordance with s.64(3) of the *Residential Tenancies Act, 2006* (Act).
9. The issue here, however, is who is responsible for the water bill. The Landlord maintains that the Tenants are responsible for all utilities in the residential complex. The Landlord submitted an unsigned lease agreement dated June 1, 2016, outlining in Part II s.4 that the Tenant, Barbara Rhoden ('BR'), is responsible for hydro, gas, and "utility bills for 618 Old Weston Road." The Tenant, Leon Rhoden ('LR'), is BR's son and has since been recognized as a Tenant in the unit by prior Board orders, which will be respected in this order. LR began assisting and representing his mother once she became ill with dementia in 2023. LR maintains that the Tenants are responsible for all utilities except water.
10. The parties do not dispute that that BR has lived at the residential complex for over 30 years but was not a signatory to the original lease, which was not provided by either party at the hearing. BR moved into the unit with her husband at the time who was the named Tenant for the original lease.
11. The Landlord testified that the BR and the Landlord agreed to make her a Tenant to the lease in 2016, as all other roommates had left, and BR requested the Landlord draft a new lease to reflect this. LR, however, testified that they have never seen the 2016 lease before, and his father did not move out of the unit until 2017/2018 when his parents divorced. In any event, the evidence shows that the parties agreed to make BR a Tenant, at the earliest, after 2016.
12. The parties do not dispute that the tenant residing in the basement unit is the Landlord's brother. LR testified that the downstairs tenant was living at the residential complex before BR moved in over 30 years ago; whereas the Landlord maintains the BR was living there first. The downstairs tenant did not testify at the hearing.
13. The Landlord testified that the arrangement was always for BR (and later LR) to pay for the utilities, as she resided there first. LR, however, maintains that the utilities for the residential complex were shared between the upstairs and downstairs units, and it is unreasonable to ask him and his mother to pay the utilities for a tenant in a separate unit.
14. LR testified that the downstairs tenant was instructed by the Landlord at some point to give his rent money to BR who would then give the rent for both units to the Landlord. The Landlord did not dispute this at the hearing. BR would at the same time collect contributions by the downstairs tenant towards the utilities. The arrangement persisted for years, after which LR took over the responsibility of collecting the rent and utility payments. LR further testified that the downstairs tenant informed him in 2023 that the Landlord would be collecting the rent himself for each unit, to which LR replied that he and BR would pay for all utilities except water as it would be more convenient that way instead of constantly having to split all the utility bills. LR then moved all utility accounts, except the water service account, into BR's name.

15. LR maintains he has not seen or been provided with a copy of the water bill since December 2022 when he and the Landlord last met up to pay the bill at the local civic centre; however, the Landlord's Legal Representative produced text messages at the hearing showing the Tenant was sent some bills by text and other messages about payment reminders, directly contradicting the Tenant's testimony.
16. Having considered the evidence and submissions before me, I am satisfied on the balance of probabilities that the Tenants are responsible for the unpaid water bills, and that non-payment of this utility, whether in whole or in part, constitutes an interference with the Landlord's lawful rights, privileges, or interests, per section 64(1) of the Act.
17. Based on the evidence before me, I am not satisfied there is a written lease in place. The 2016 lease agreement submitted by the Landlord was not signed, nor could the Landlord adequately explain why he himself did not sign it or when it was sent to BR to sign. The Landlord also did not submit a copy of any lease signed when the BR first moved into the unit.
18. In the absence of a written lease, I turn to the conduct of the parties to ascertain the real substance of the transactions and activities between them in accordance with s. 202 of the Act. The pattern of behaviour shows that the Tenants are responsible for all utilities for which they pay using the downstairs tenant's contributions. The Landlord did not dispute how the utility bills were paid, only that the water bill was no longer being paid. The Tenant confirmed all utility accounts are in BR's name, with the exception of the water account, and the parties do not dispute that the Tenants were responsible for paying all utilities (including the water bill) up until 2023 when the Landlord then elected to collect the rent from each unit separately. Therefore, based on the substance of the activities between parties, I am satisfied that the Tenants are responsible for paying the water bill, the cost of which is split with the downstairs tenant. Given that there are two units in the residential complex, I find it reasonable to attribute 50% of the water bill to each unit.

Compensation for Unpaid Utilities:

19. Based on the above analysis, I am satisfied that the Tenants failed to pay water costs that they were required to pay under the terms of the tenancy agreement.
20. The Landlord's Legal Representative submitted seven Toronto Water & Solid Waste Services bills and two Toronto Revenue Services Transfer to Tax Notices for the period of service from April 23, 2023 to December 1, 2025, totaling \$5,103.94. This total takes into account the early payment discounts used by the Landlord when paying the invoices.
21. The Tenant did not dispute that no payments have been made towards the unpaid water bills.
22. Therefore, taking into consideration the determination above that the Tenants are responsible for 50% of the water bill, I am satisfied on the balance of probabilities that the Landlord has incurred reasonable out-of-pocket expenses of **\$2,551.97** (\$5,103.94 x 50%) as a result of the Tenants' failure to pay water service costs.
23. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

Relief from Eviction:

24. 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 not be unfair to grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.
25. BR has resided in the unit for over 30 years and has been suffering from dementia since 2023. She relies on LR to assist her with living until BR can be placed in a long-term care facility or other arrangements can be made for her medical care.
26. The Landlord's Legal Representative stated that due to the additional rent arrears the Tenants owe, the Landlord does not believe the tenancy is feasible should issues with water bill payment continue. However, the parties do not dispute that all other utility bills have been paid, and the Tenants are on a payment plan with respect to the rent arrears. This was also the Landlord's first N5 notice of termination served to the Tenant.
27. The spirit of the Act takes into account the gravity of an eviction. As the Divisional Court stated in *Sutherland v. Lamontagne*, [2008] O.J. No. 5763 (Div. Ct.), eviction is a remedy of last resort and should not be taken lightly. Relief will and should be granted where the tenancy can be saved without overly prejudicing a landlord's interests.
28. Having considered the submissions before me, I do not find the substance of this application to rise to the level of severity that would necessitate an eviction. I do, however, find a conditional order to be more appropriate to ensure the Landlord has a method of relief while conditionally preserving the tenancy.

It is ordered that:

1. The tenancy between the Landlord and the Tenants continues if the Tenants meet the conditions set out below.
2. Beginning March 11, 2026, for a period of twelve months ending on March 10, 2027, the Tenants shall pay 50% of the water bills for the residential complex on or before the due date stated on each bill.
3. If the Tenants fail to comply with the conditions set out in paragraph 3 of this order, the Landlord may apply under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') for an order terminating the tenancy and evicting the Tenants. The Landlord must make the application within 30 days of a breach of a condition. This application is made to the LTB without notice to the Tenants.
4. The Tenants shall pay to the Landlord \$2,551.97, which represents the reasonable out-of-pocket expenses the Landlord has incurred or will incur as a result of the unpaid utility costs.
5. The Tenants shall also pay to the Landlord \$186.00 for the cost of filing the application.
6. The total amount the Tenants must pay the Landlord is **\$2,737.97**.

7. If the Tenants do not pay the Landlord the full amount owing on or before March 31, 2026, the Tenants will start to owe interest. This will be simple interest calculated from April 1, 2026 at 4.00% annually on the balance outstanding.

March 11, 2026

Date Issued

Fotoula Hatzantonis

Member, Landlord and Tenant Board

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