



Order under Section 69 Residential Tenancies Act, 2006

Citation: JOSEPH v FORTUNE, 2026 ONLTB 21688

Date: 2026-03-13

File Number: LTB-L-070180-25

In the matter of: 176 BRUCE ST
OSHAWA ON L1H1R3

Between: DENHAM ANGELO JOSEPH

Landlord

And

TYLAH E. L. FORTUNE
AUSTIN R. J. BOGART
SCOTT K. DOUGLAS

Tenants

DENHAM ANGELO JOSEPH (the 'Landlord') applied for an order to terminate the tenancy and evict TYLAH E. L. FORTUNE, AUSTIN R. J. BOGART and SCOTT K. DOUGLAS (the 'Tenants') because the Tenants did not pay the rent that the Tenants owes.

This application was heard by videoconference on March 9, 2026.

The Landlord, the Landlord's legal representative, Bhagya De Alwis, and the Tenants attended the hearing.

Determinations:

1. The Landlord served the Tenants with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). 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.
2. As of the hearing date, the Tenants were still in possession of the rental unit.
3. The lawful rent is \$1,900.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$62.47. This amount is calculated as follows: \$1,900.00 x 12, divided by 365 days.
5. The Tenants has not made any payments since the application was filed.
6. The rent arrears owing to March 31, 2026 are \$17,100.00.

7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. There is no last month's rent deposit.

Amendment to L1 Application

9. The L1 application included rental periods prior to the N4 notice. These were removed on consent.

Relief from Eviction – Allegation of Serious Ongoing Breach

10. Section 83(3) of the *Residential Tenancies Act, 2006* (the 'Act'), prevents the Board from granting an application for eviction where the landlord is in serious breach of the Act. A breach of the Act will not automatically prevent an eviction; the alleged breach must be both serious and ongoing. Guideline 7: Relief from Eviction, provides additional commentary:

Conditions which deprive the tenant of the full use of the premises will usually be serious, particularly if it affects the kitchen, bathroom or sleeping areas...

the tenant's conduct may also be relevant. For example, if the tenant has never before complained...

Further, the tenant should not have contributed to the problem, such as by obstructing the landlord's repair efforts.

11. If a tenant raises an allegation that the landlord is in serious breach of the Act such that an application for eviction must be denied, the onus is on the tenant to prove the allegation.
12. Because the Tenants did not file a list of issues to be raised in advance of the hearing, the maintenance issues cannot be considered for an abatement of rent under section 82; they are considered in the context of a serious ongoing breach only. This order does not preclude any future adjudication of the same issues for other purposes.
13. Of the three Tenants present, only AB provided evidence. AB did not have full or first-hand knowledge of all incidents, however even after this was identified as an issue the other two tenants chose not to provide additional evidence. The credibility of AB's testimony was weakened by their inaccurate assertions that they did not receive or have access to documents which they did in fact have access to, and that they were unable to file documents or applications. Because no documents were exchanged or filed in advance of the hearing, the only evidence before me is the testimony of the parties.
14. While it is apparent that there have been some less than ideal situations in the tenancy, the Tenants have not proven that these constitute serious ongoing breaches which would prevent an eviction. There was insufficient information provided about many of the issues raised to make any finding of fact. However, I am satisfied that the Landlord was aware of the Tenants' concerns relating to rodents and the behaviour of tenants in other units. I find

that these issues are not serious ongoing breaches because the Landlord made efforts to address them. The Landlord's testimony that they followed up on complaints about tenants in other units but had insufficient evidence to give notices or take formal action relating to interference with enjoyment or illegal activities was credible. Although they disagree on the details, both parties referred to the Tenants communicating with the Landlord about potential treatment for rodents and restricting treatment options due to pets in the Tenant's unit. As the Tenants partially hindered the Landlord's ability to respond to the complaint and the Tenants did not materially dispute the Landlord's assertion that they had a substantial amount of garbage in the unit which may have contributed to the rodent problem, I find that the circumstances do not support a finding that the Landlord is in serious ongoing breach.

15. 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 postpone the eviction until March 31, 2026 pursuant to subsection 83(1)(b) of the Act. The Tenants requested this brief delay to make full payment. While the issues raised by the Tenants did not constitute serious ongoing breaches, I am satisfied that in considering the total circumstances of the tenancy, a brief extension of time to make full payment of the current arrears is not unreasonable or prejudicial to the Landlord.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated unless the Tenants void this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$17,286.00 if the payment is made on or before March 31, 2026. See Schedule 1 for the calculation of the amount owing.
3. The Tenants may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenants have paid the full amount owing as ordered plus any additional rent that became due after March 31, 2026 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenants may only make this motion once during the tenancy.
4. **If the Tenants do not pay the amount required to void this order the Tenants must move out of the rental unit on or before March 31, 2026.**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$15,948.23. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.
6. The Tenants shall also pay the Landlord compensation of \$62.47 per day for the use of the unit starting March 10, 2026 until the date the Tenants moves out of the unit.
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.

8. If the unit is not vacated on or before March 31, 2026, then starting April 1, 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 April 1, 2026.

March 13, 2026

Date Issued

Dawn Carr

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 April 1, 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 Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before March 31, 2026

Rent Owing To March 31, 2026	\$17,100.00
Application Filing Fee	\$186.00
Total the Tenants must pay to continue the tenancy	\$17,286.00

B. Amount the Tenants must pay if the tenancy is terminated

Rent Owing To Hearing Date	\$15,762.23
Application Filing Fee	\$186.00
Total amount owing to the Landlord	\$15,948.23
Plus daily compensation owing for each day of occupation starting March 10, 2026	\$62.47 (per day)
**Ongoing daily compensation continues to accumulate until the total amount owing (excluding costs) is \$50,000.00.	