



Order under Section 69 Residential Tenancies Act, 2006

Citation: Bruno v Gemmell, 2026 ONLTB 21854

Date: 2026-03-12

File Number: LTB-L-033399-24

In the matter of: 111 BARTLETT ST
THOROLD ON L2V4Y5

Between: Valerio Bruno Landlord

And

Gord Gemmell Tenants
Lisa Stephenson-Gemmell

Valerio Bruno (the 'Landlord') applied for an order to terminate the tenancy and evict Gord Gemmell and Lisa Stephenson-Gemmell (the 'Tenants') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on March 10, 2026.

The Landlord, the Landlord's Legal Representatives Peter Janowski and Sidney Sheridan, the Tenants and the Tenants' Legal Representative Kimberley Farrell attended the hearing.

Determinations:

1. The N4 Notice of Termination and the L1 application claim rent arrears of \$8,836.50 are owing. The reasons and details portion of the N4 notice that includes rent tables showing how this amount was calculated includes \$1,400.00 owing for the period June 1, 2020 to December 31, 2020. This period and amount is also claimed on the L1 application.
2. The monthly rent is \$1,600.00.
3. The Tenants' evidence was that as of February 4, 2021, there were no rent arrears owing in the tenancy. Between January 16, 2021 and February 4, 2021, the Tenants paid the Landlord \$14,423.65. This amount is supported by the Landlord's record of payments submitted at the hearing and receipts submitted by the Tenants.
4. The total rent charged between June 1, 2020 and February 4, 2021 is \$14,400.00. Nine months at \$1,600.00 is \$14,400.00.

5. However, instead of applying all of the Tenants' payments to the outstanding rent at the time, the Landlord held a portion of the payment in abeyance to use for rent that had not yet come due. The Landlord's Legal Representative Sidney Sheridan stated that it made the most sense to apply the payments this way but did not provide a satisfactory explanation as to why this would be since as of February 4, 2021 payment, all of the arrears had been paid and no new rent had yet come due.
6. Ms. Sheridan nor Mr. Janowski provided any reasonable explanation as to why the Landlord deviated from standard accounting principles by holding a portion of the Tenants' payment for future rent, instead of applying the held amount to the rent arrears from 2020.
7. The Landlord cannot perpetuate rent arrears by failing to apply payments to outstanding rent, particularly when no other rent has come due or is owing under the tenancy agreement. Based on the evidence of the parties, I am satisfied on a balance of probabilities that as of the February 4, 2021 payment, there were no arrears of rent under the tenancy agreement.
8. As stated, the reasons and details portion of the N4 Notice served to the Tenants particularizes an allegation that \$1,400.00 is owing for the period June 1, 2020 to December 31, 2020. For the reasons provided here, I find this allegation is not correct since at the time the N4 Notice was served, \$1,400.00 in rent arrear was not unpaid for any period of 2020.
9. The Tenants are entitled to an accurate account and explanation of the claims being made, including when rent charged is alleged to have gone unpaid so that they can know the case to meet and prepare a response.
10. If the \$1,400.00 claimed for 2020 is actually outstanding for some later period of the tenancy, the Landlord's additional rent tables included in the N4 Notice are also incorrect. In this case, because the Landlord particularized their claim on the N4 Notice incorrectly, the Tenants unnecessarily expended time and resources to compile evidence and prepare a response for a period when no rent was owing instead of being able to focus solely on relevant periods.
11. Since the N4 Notice contains incorrect particulars the Tenants relied on in preparing for this case, I find it is invalid. The N4 does not contain accurate rental periods or amounts owing for these periods.
12. At the hearing, I reserved my decision on this issue. The Landlord advised me that if I found the N4 notice invalid, they would be seeking an order for rent arrears.
13. An L1 application seeks two orders from the Board. The first is for termination of the tenancy based on arrears of rent. The second is for an order requiring the Tenants to pay the rent arrears claimed. This L1 application was filed on April 25, 2024.
14. The application claims in part, rent arrears of \$1,400.00 for the period of June 1, 2020 to December 31, 2020. I have already found this amount had been paid to the Landlord as of February 4, 2021. The Landlord's position was that all of the payments the Tenants made had been accounted for. However, what this means is that the Landlord is actually claiming arrears of rent and in amounts for periods not accurately particularized to the Tenants in the application.

15. The Landlord did not request to amend the application either before or during the hearing to provide accurate periods and amounts being sought for them. I did not find it would be appropriate or fair to the Tenants to amend the application on my own motion only after it had been shown the arrears claimed for 2020 were not owing.
16. In my view, the Tenants are entitled to reasonable particulars clearly setting out the amount of rent arrears claimed and when these amounts are alleged to have gone unpaid. The Tenants attended the hearing prepared to respond to the allegations set out in the application and having done so successfully, at least in part, I did not find it would be procedurally fair to amend the application and shift the alleged rent arrears to different periods of the tenancy, particularly without notice to the Tenants.
17. While the Tenants did acknowledge rent arrears are owing, I was not convinced on a balance of probabilities the amount they conceded was accurate either. The amount asserted by the Tenants was based on an initial amount they believe is owing minus various amounts they believe they should be given credit for. After reviewing the Tenants' evidence alongside the Landlord's ledger and payment record, I could not conclude the final amount asserted by the Tenants was most likely correct.
18. For all of these reasons, I do not find it is appropriate to amend the L1 application and issue an order determining the amount of rent arrears, particularly when the evidence presented was not sufficiently clear to make such findings. Accordingly, the Landlord's request for an order requiring the Tenants to pay arrears of rent is also denied.

It is ordered that:

1. The Landlord's L1 application is dismissed.

March 12, 2026
Date Issued

John Cashmore
Member, Landlord and Tenant Board

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