Order under Section 69
Residential Tenancies Act, 2006

Citation: Burford v Ricketts, 2026 ONLTB 12138
Date: 2026-02-09
File Number: LTB-L-094821-25

In the matter of: UNIT 9, 103 SIXTEENTH ST
ETOBICOKE ON M8V3J9

Between: Fred Burford — Landlord

And

Jahfarri Ricketts — Tenant

Fred Burford (the 'Landlord') applied for an order to terminate the tenancy and evict Jahfarri Ricketts (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 22, 2026.

The Landlord's agent Terry Burford, the Landlord's legal representative, Maria Sturino, the Tenant and the Tenant's legal representative, Vijay Shah attended the hearing.

Preliminary Issues:

<u>Section 82 Issues</u>

1. At the outset of the hearing I noted that the Tenant appeared to have uploaded documentary evidence to the Portal that seems to imply the Tenant intended to bring issues pursuant to section 82 of the Residential Tenancies Act, 2006 (the 'Act'); however, the Tenant did not upload a written description of the issues they intended to raise or what remedy they were seeking from the Board for those issues.

2. The Tenant's legal representative submitted they were retained 2 days prior to the hearing and were not able to comply with the Rules with respect to disclosure of the Tenant's section 82 issues.

3. Rule 19.4 of the LTB's *Rules of Procedure* sets out requirements for tenants who wish to raise s. 82 issues during a hearing for a landlord's application about rent arrears and states the following:

Unless the LTB has directed or ordered otherwise, a tenant who intends to raise issues under sections 82(1) or 87(2) of the RTA during a hearing for a landlord's application about rent arrears shall provide the other parties and the LTB with th following at least 7 days before the scheduled CMH or hearing:

1. a written description of each issue the tenant intends to raise; and
2. a copy of all documents, pictures, and other evidence that the tenant intends to rely upon at the hearing

4. The reason a tenant must submit a written description is rooted in procedural fairness. A landlord must be provided an opportunity to know the issues and remedies requested so that they may properly prepare a response and/or defence. A landlord cannot be expected to sift through photos and documents which have been uploaded to the portal to try and guess what a tenant is alleging.

5. The Tenant did not provide an explanation regarding why he waited until two days prior to the hearing to hire legal representation. The Tenant was served with the Landlord's N4 notice in October 2024 and was sent the notice of hearing on December 22, 2025. Absent any evidence to show the contrary, I find the Tenant had reasonable time to obtain representation and/or comply with the Rules regarding disclosure of section 82 issues.

6. As far as I was made aware the Tenant is not statutorily barred by the limitation period and has the ability to submit an application pursuant to section 29(1) of the Act.

7. For these reasons the Tenant was not permitted to present their section 82 issues during the hearing.

<u>Validity of the N4 Notice</u>

8. The Tenant's legal representative submitted that the Landlord's N4 notice is invalid for two reasons. First, that the lawful rent is not as stated on the N4 notice. The Tenant submitted that the Landlord agreed to reduce the rent to $800.00 per month beginning January 2025. The second reason is that the Landlord did not account for payments the Tenant made during the months set out on the N4. The Tenant submitted they sent eTransfers in the amount of $800.00 from January to October 2025.

9. The N4 notice sets out the following information:

10. The Landlord disputes that there was an agreement to reduce the rent to $800.00 per month in January 2025. Landlord's legal representative does not dispute the Tenant made $800.00 payment from January to October 2025 and submitted that the Landlord used standard accounting practices when they received those payments from the Tenant and applied them to the oldest outstanding arrears.

What is the lawful rent?

11. It was undisputed that the Landlord and the Tenant entered into a lease agreement commencing October 1, 2023, and that the lawful rent was $1,800.00 per month.

12. The Tenant testified that he lost his job at the beginning of January 2025 and was having financial difficulty. The Tenant stated that the Landlord and his property manager attended at the Tenant's unit on approximately January 4th or 5th, 2025, to speak to him about his rent payments. The Tenant testified he told the Landlord he could only afford to pay $800.00 per month in rent and the Landlord replied that they would "take that amount". The Tenant believed that because it was the start of a new year that the terms of his lease agreement were being altered because the Landlord agreed to reduce the lawful rent at that time. The Tenant stated there was nothing in writing with respect to this agreement and his understanding was based on the verbal conversation with the Landlord.

13. The Landlord's agent, Terry Burford (T.B.) testified he is the Landlord's property manager and was present during the conversation that took place with the Tenant at the beginning of January 2025. T.B. testified that he and the Landlord attended the unit to speak with the Tenant about his persistent partial and late payments. At that time the Tenant told the Landlord that he could only afford to pay $800.00 per month. T.B. stated that the Tenant was never told that the rent would be reduced $800.00.

14. Based on the testimony and evidence before me I find that the lawful rent remained $1,800.00 per month. I say this for the following reasons.

15. The Tenant's belief that he and the Landlord were negotiating new terms on a lease agreement simply because it was the start of a new year is misguided. Section 38(1) of the act states:

> **38 (1)** If a tenancy agreement for a fixed term ends and has not been renewed or terminated, the landlord and tenant shall be deemed to have renewed it as a monthly tenancy agreement <u>containing the same terms and conditions that are in the expired tenancy agreement</u> and subject to any increases in rent charged in accordance with this Act.
>
> [emphasis added]

16. Additionally, it is well established contract law principle that there must be a "meeting of the minds" that signifies mutual understanding and consent between the parties. I find that the Landlord stating they will "take" the Tenant's payment of $800.00 per month is

indicative of the Landlord doing just that; taking what they can get to mitigate their losses and this statement was not an agreement to lower the lawful rent going forward. I find there was no meeting of the minds between the parties.

Payments not indicated on N4

17. It was undisputed that the Tenant made payments of $800.00 per month from January 2025 to October 2025. It was also undisputed that there was no direction from the Tenant, verbally or by indication in writing on the eTransfer that the Tenant was directing the Landlord to apply their payment to a specific month.

18. The Landlord's position was that the Tenants payments were accounted for and that the Landlord followed the generally accepted accounting principle of applying the Tenant's payments to the oldest arrears of rent.

19. It was the Tenant's position that they did not owe the Landlord arrears of rent up to the end of 2024 so the Landlord could not have applied payments to arrears that did not exist. In the alternative, the Tenant submitted that even if the Board finds there were arrears owing, the N4 is confusing as it should set out the amount of rent the tenant paid during each period claimed.

20. The Landlord uploaded their accounting ledger showing all payments received by the Tenant. The Landlord's records indicate that as of December 31, 2024, the Tenant owed rent arrears in the amount of $4,150.00. The Tenant provided no supporting evidence to prove that he paid all the required rent to December 31, 2024. As the Landlord cannot prove a negative, the Tenant was required to provide supporting evidence to substantiate his claim. Without such evidence, I cannot find that the Tenant had paid all the rent owing to December 31, 2024, and the Landlord's accounting records shall stand.

21. Since the tenancy started in 2023 according to the ledger, the Tenant repeatedly paid rent short of the full amount due. Payments made were always historically applied to back rent by the Landlord. On the balance of probabilities given the history of the Landlord's accounting practices that the Tenant would have been aware of; I do not accept that the information on the N4 notice caused confusion. As such, I find the N4 notice is valid.

Determinations:

22. 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.

23. As of the hearing date, the Tenant was still in possession of the rental unit.

24. The lawful rent is $1,800.00. It is due on the 1st day of each month.

25. Based on the Monthly rent, the daily rent/compensation is $59.18. This amount is calculated as follows: $1,800.00 x 12, divided by 365 days.

26. The Tenant has not made any payments since the application was filed.
27. The rent arrears owing to January 31, 2026 are $18,750.00.
28. The Landlord incurred costs of $186.00 for filing the application and is entitled to reimbursement of those costs.
29. There is no last month's rent deposit.

Relief from eviction

30. The Tenant lives in the rental unit with his two brothers who are 17 and 21 years of age. The Tenant stated his brothers do not assist with rent or expenses. The Tenant's stated income is from Ontario Works in the amount of $796.00 per month which does not provide the Tenant with the ability to cover the lawful rent. For this reason, I find this tenancy is not sustainable. The Landlord is a small landlord and the amount of the arrears causes great prejudice to the Landlord. The Tenant was provided with an oral decision on the day of the hearing, and this written order reflects my oral decision.
31. 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.

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:**
    - $22,536.00 if the payment is made on or before March 27, 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 27, 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 27, 2026.**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord $18,437.96. 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 Tenant shall also pay the Landlord compensation of $59.18 per day for the use of the unit starting January 23, 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 27, 2026, the Tenant will start to owe interest. This will be simple interest calculated from March 28, 2026, at 4.00% annually on the balance outstanding.
8. If the unit is not vacated on or before March 27, 2026, then starting March 28, 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 28, 2026.

March 16, 2026
Date Issued

Melissa Anjema
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 28, 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 March 27, 2026

Rent Owing To March 31, 2026	$22,350.00
Application Filing Fee	$186.00
Total the Tenant must pay to continue the tenancy	**$22,536.00**

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

Rent Owing To Hearing Date	$18,251.96
Application Filing Fee	$186.00
Total amount owing to the Landlord	**$18,437.96**
Plus daily compensation owing for each day of occupation starting January 23, 2026 **Ongoing daily compensation continues to accumulate until the total amount owing (excluding costs) is $50,000.00.	$59.18 (per day)