



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

File Number: LTB-L-080552-25

In the matter of: 4, 123 ALBERT STREET
ST. CATHARINES ON L2R2H6

Between: ERIC MARTENS Landlord

And

KURT DUNN Tenant
JENNIFER JUDSON

ERIC MARTENS (the 'Landlord') applied for an order to terminate the tenancy and evict KURT DUNN and JENNIFER JUDSON (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 5, 2026.

The Landlord, the Tenant's Legal Representative Justin O'Donnell and the Tenant Kurt Dunn attended the hearing.

Determinations:

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 \$2,027.02. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$66.64. This amount is calculated as follows: \$2,027.02 x 12, divided by 365 days.
5. The Tenant has paid \$9,324.30 to the Landlord since the application was filed.
6. The rent arrears owing to January 31, 2026, are \$648.64.
7. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.

8. The Landlord collected a rent deposit of \$1,775.00 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.
9. Interest on the rent deposit, in the amount of \$102.64 is owing to the Tenant for the period from August 23, 2023 to January 5, 2026.

Landlord's Evidence

10. The Landlord testified that a written lease was provided to the Tenant. This lease included a prompt payment discount clause, which is located at section 3.07 of the lease agreement.
11. The clause states that the discount applies only during the initial lease term and does not apply thereafter. The lawful rent without discount was clearly set out in the lease.
12. An N1 Notice of Rent Increase was served in January 2025 setting out the lawful rent payable effective September 2025. The N1 did not include a discount, and the Landlord intended the discount to end at that time.
13. Beginning September 2025, the Landlord testified that the Tenants paid \$1,864.86, whereas the lawful rent was \$2,027.02. The arrears arose solely because the Tenants continued to deduct the discount.
14. The Tenants never refused to pay rent but paid less than the lawful amount. Additionally, the Landlord stated that no discounted rent payments were returned during the lease term.
15. The Landlord submitted case law and relied on section 111 of the 'Act', arguing that a rent discount does not alter the lawful monthly rent.

Tenant's Evidence

16. The Tenant Kurt Dunn testified that the Tenants understood the lease to allow an 8% prompt payment discount if rent was paid before the 1st of the month.
17. He testified that rent was consistently paid before the due date or before the 1st of the month. The discounted amount was paid every month.
18. The Tenants received an N4 in September 2025 and disputed the amount immediately in writing. They disputed how much rent was owed, not about a refusal to pay. Lastly, he stated that he did not believe they were in arrears.
19. Through Mr. Dunn testimony and submission by Mr. O'Donnell, the Tenants sought a determination on whether the discount continued to apply after September 2025.

Analysis

20. When I examined the written lease, it contains a prompt payment discount clause at section 3.07. The clause states that:

- the discount applies only during the initial lease term, and
- after that term, rent payable is the lawful rent without discount

21. The Landlord testified that an N1 Notice of Rent Increase was served in January 2025 setting out the lawful rent effective September 2025 and that the discount was not included.

22. The Tenants acknowledged receipt of the N1 but continued to deduct the discount.

23. When I turn to section 111 of the 'Act' it states:

(2) The lawful rent is not affected by a discount in rent at the beginning of, or during, a tenancy of up to 2 per cent of the rent that could otherwise be lawfully charged for a rental period if the discount is provided for paying rent on or before the date it is due and the discount meets the prescribed conditions.

24. I find the lease wording in this case to be clear and unambiguous. The discount was not discretionary, but it was expressly limited to the initial lease term. A rent discount does not change the lawful rent and may be discounted, which is the case here.

25. The N1 provided clear notice of the lawful rent payable beginning September 2025. No amendment to the lease was required. I therefore find that the prompt payment discount did not apply after the initial lease term, and the lawful rent was \$2,027.02 per month beginning September 2025.

26. The evidence shows that the Tenants paid \$1,864.86 for September 2025 instead of the lawful rent of \$2,027.02, resulting in arrears of \$162.16, and continued to the date of this hearing. These arrears arose solely from underpayment due to continued application of the discount which the Tenants did on their own.

27. I requested submissions from both parties regarding eviction. The Landlord asked the Board to consider an 11-day standard order. The Tenants asked that the application be dismissed, which I am not doing given my findings. The Tenants also requested either a payment plan to address the arrears or, alternatively, 30 days before any eviction.

28. Given the submissions by the parties, I find that the evidence establishes that the Tenant has paid rent every month. The dispute concerns the discount, not a refusal to pay. Lastly, the Tenant acted under a genuine belief that the discount applied.

29. I have considered all of the relevant circumstances as required under subsection 83(2) of the Residential Tenancies Act, 2006 (the "Act"), including the nature and extent of the arrears, the Tenant's payment history, the reasons for the arrears, and the impact that eviction would have on the household. The evidence shows that the Tenants have consistently paid rent each month and that the arrears arose solely from their continued application of a discontinued discount, which they believed in good faith remained in effect.

There is no evidence of intentional non-payment, persistent late payment, or conduct demonstrating an unwillingness to comply with rental obligations.

It is ordered that:

1. The Tenant shall pay to the Landlord \$849.64, which represents the arrears of rent (\$648.64) and costs (\$201.00) outstanding for the period ending January 31, 2026.
2. The Landlord's application for eviction of the Tenant is denied on the condition that:

(a) The Tenant shall make the following payments to the Landlord in respect of the monies owing under paragraph 1 of this order:

Date Payment Due	Amount of Payment
1 st day of each month, starting April 2026 to June 2026	\$283.21

3. The Tenant shall also pay to the Landlord new rent on time and in full as it comes due and owing for the period April 2026 to June 2026, or until the arrears are paid in full, whichever date is earliest.
4. If the Tenant fails to make any one of the payments in accordance with this order, the outstanding balance of any arrears of rent and costs to be paid by the Tenant to the Landlord pursuant to paragraph 1 of this order shall become immediately due and owing and the Landlord may, without notice to the Tenant, apply to the LTB within 30 days of the Tenant's breach pursuant to section 78 of the Act for an order terminating the tenancy and evicting the Tenant and requiring that the Tenant pay any new arrears, NSF fees and related charges that became owing after date arrears run to.

March 30, 2026
Date Issued

Anthony Bruno
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.