



Order under Section 69 Residential Tenancies Act, 2006

Citation: Auclair v Auclair, 2026 ONLTB 8639

Date: 2026-03-25

File Number: LTB-L-087074-25AO

In the matter of: 640 ARMSTRONG RD
Merrickville ON K0G1N0

Between: Carole Auclair Landlord

and

Jessyka Auclair Tenant

The following Order was amended to include the deadline for the administrative fine. Changes are in bold underline. No other changes have been made.

Carole Auclair (the 'Landlord') applied for an order to terminate the tenancy and evict Jessyka Auclair (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 20, 2026.

The Landlord's Agent and spouse, Michel Auclair, the Landlord, and the Tenant attended the hearing. The Tenant spoke with Duty Counsel prior to the start of the proceeding.

Determinations:

1. The residential complex includes a house and barn on a large, rural property. The Tenant previously ran a small pet grooming business on the property and housed domestic animals in the barn.
2. As of the hearing date, the Tenant was still in possession of the rental unit.
3. The Landlord and Tenant are mother and daughter and there was no written lease agreement between the parties.
4. The daughter took over the lease from her boyfriend in 2022. The Landlord has brought an application seeking rent arrears. The Tenant raises various maintenance issues under section 82 of the *Residential Tenancies Act, 2006* (the 'Act')
5. For the reasons that follow, the Landlord's application is dismissed on the basis that their N4 Notice is defective.

Preliminary issue - adjournment request denied

6. On January 14, 2026, the Tenant requested in writing to change the format of the hearing and adjourn it to an unspecified date prior to the hearing. These requests were rejected by the Board in an endorsement issued on January 19, 2026, without prejudice to the Tenant's ability to raise them at the hearing.
7. At the hearing, the Tenant requested an adjournment because she had been ill and in hospital in November, and as a result, did not have enough time to prepare.
8. Rule 21.8 of the *LTB's Rules of Procedure* provides an adjudicator may adjourn a hearing where such is required to permit an adequate hearing to be held. The decision is discretionary.
9. Furthermore, Rule 21.9 states that adjournments be granted only in exceptional circumstances.
10. Factors that may be considered include: the reason for the adjournment, the issues in the application, any prejudice that may result from the adjournment, the history of the proceeding, and the LTB's duty to adopt the most expeditious method of determining the questions arising in a proceeding that affords to all persons directly affected by the proceeding an adequate opportunity to know the issues and be heard on the matter.
11. The Tenant did not provide any documentation regarding her illness or hospitalization, something that I would have expected the Tenant to have when requesting an adjournment. The Notice of Hearing was emailed November 4, 2025 and mailed December 16, 2025. In these circumstances, I am not satisfied that the Tenant was unable to properly prepare for the hearing.
12. On the other hand, I found there would be significant prejudice to the Landlord if the hearing were rescheduled. The Landlord testified that the Tenant had not paid rent for one full year, and an adjournment would result in further arrears accruing. As a result, I denied the adjournment request.

L1 Application

The Landlord's N4 is defective

1. The Landlord's N4 is defective because it stated the incorrect monthly rent.
2. When the tenancy began on January 1, 2018 between the Landlord and the Tenant's boyfriend, the lawful rent was \$900.00.
3. On December 1, 2023, the rent was increased to \$1,000.00 – an increase of approximately 11.11%. The Guideline rent increase in December 2023 was 2.5%. Therefore, this rent increase was above the Guideline set by the Board.
4. Sub-sections 116(1) and (4) of the Act provide:

116 (1) A landlord shall not increase the rent charged to a tenant for a rental unit without first giving the tenant at least 90 days written notice of the landlord's intention to do so.

(4) An increase in rent is void if the landlord has not given the notice required by this section, and the landlord must give a new notice before the landlord can take the increase.

5. As no NORI was provided to the Tenant with respect to the December 1, 2023, rent increase, the rent increase was, on its face, void. However, section 135.1 of the Act provides for when an unlawful rent increase due to the failure to serve a NORI may be deemed lawful:

135.1 (1) An increase in rent that would otherwise be void under subsection 116 (4) is deemed not to be void if the tenant has paid the increased rent in respect of each rental period for at least 12 consecutive months.

(2) Subsection (1) does not apply with respect to an increase in rent if the tenant has, within one year after the date the increase was first charged, made an application in which the validity of the rent increase is in issue.

6. Based on the ledger provided by the Landlord which was made an exhibit in DOC6631804, I find that the Tenant paid rent 11 times in the 12 consecutive months since the rent was increased. The Tenant did not dispute this. Because the Tenant did not pay 12 consecutive months, the rental increase is not saved by section 135.1, and as a result the lawful rent is \$900.00.
7. The Landlord's N4 Notice calculated arrears based on a lawful rent of \$1,000.00 as of December 1, 2023, and therefore incorrectly claimed substantially more rent than was actually owing. This is a substantive error that caused significant prejudice to the Tenant, such that the N4 Notice cannot be found to be substantially compliant.
8. As a result, I found that the N4 Notice was invalid, and therefore the eviction portion of their application could not proceed. When I communicated my finding to the Landlord, they frankly admitted that all they were seeking at the hearing was termination and eviction, and that they had no expectation of ever receiving payment.
9. Where rent has not been paid, any award of abatement reduces the rent owed by offsetting any such award against any arrears owed. As explained in the *LTB's Interpretation Guideline 6: Tenant Rights*, "if a tenant owes the landlord arrears of rent, any abatement awarded to the tenant must be applied to offset the arrears (see *Marineland of Canada Inc. v. Olsen*, 2011 ONSC 6522 (CanLII))."
10. The Landlord's application is dismissed.

Section 82 Issues raised by the Tenant

13. On January 13, 2026, the Tenant emailed the Landlord a copy of a list of issues she intended to raise at the hearing under s. 82 of the Act, in compliance with the 7 day notice

requirement. The Landlord admitted they received this on the date it was sent. I therefore find the Tenant complied with Rule 19.4 of the LTB's *Rules of Procedure*.

14. The Tenant claims multiple issues of maintenance and repair and lack of vital services including:
 - a. a general claim of no heat or water in the main house on the property such that they have been forced to live in the barn and have conducted renovations to make this tolerable; and,
 - b. more specifically, a broken furnace, a sole non-potable water source, a broken well pump at the barn, rodents, broken appliances - fridge, stove, dishwasher, broken fireplace, mold in bathrooms, and that the downstairs shower leaks.
15. Under section 29(2) of the Act a tenant is only able to claim for events and remedies that predate the filing of their application by one year.
16. From what date the one-year period is calculated has been found to be both the date the date the L1 Application is filed and the date the issues are sent to the landlord. I prefer the reasoning in cases that calculate one year back from the date the Tenant gives notice to the Landlord as I find the Tenant has always been able to raise issues and so not find the fact that the landlord filed a L1 application relevant to the limitation period on their applications.
17. That said, where the issue is one of maintenance and the Landlord has not corrected the issues, the issue constitutes an ongoing breach, and the LTB can award a remedy for the period up to one year prior to the application being filed.
18. The Tenant provided notice on January 13, 2026. The Tenant's claims with respect to rodents, mold, and the stove date back to 2013. As it is more than one year before she raised this issue, and it was not clear whether it was still ongoing, under s. 82 the claim is out of time and is dismissed.

Alleged breaches involving the furnace, water systems, and hydro

19. The Tenant alleges that the Landlord failed to fix the furnace and water system, and also failed to restore the rental unit's power supply. They allege that doing so breached sections 20(1) and 21(1) of the *Residential Tenancies Act, 2006*, (the Act), which provide as follows:
 - 20** (1) A landlord is responsible for providing and maintaining a residential complex, including the rental units in it, in a good state of repair and fit for habitation and for complying with health, safety, housing and maintenance standards.
 - 21** (1) A landlord shall not at any time during a tenant's occupancy of a rental unit and before the day on which an order evicting the tenant is executed, withhold the

reasonable supply of any vital service, care service or food that it is the landlord's obligation to supply under the tenancy agreement or deliberately interfere with the reasonable supply of any vital service, care service or food.

20. These separate qualifiers, "good state of repair", "fit for habitation" and "complying with health, safety, housing and maintenance standards" can ground separate breaches of the Landlord's obligation.
21. Heat and water are both vital services under the Act.
22. In *Onyskiw v. CJM Property Management Ltd.*, 2016 ONCA 477 (CanLII) (*Onyskiw*), the Ontario Court of Appeal determined that a landlord is not automatically in breach of their maintenance obligations as soon as an interruption in a service occurs, and a contextual approach is necessary for determining whether or not a landlord has breached their maintenance obligations under section 20 of the Act.
23. There was no written tenancy agreement. The Landlord did not seriously challenge the Tenant's evidence that the rental unit included a furnace, as well as the water that was accessible in the house and via a pump.
24. After considering the entirety of the factual situation, I am satisfied that the Landlord is in serious and ongoing breach of their s. 20 and 21 obligations in relation to broken furnace and water system. As the hydro was the Tenant's responsibility, I am not satisfied that they established a breach in relation to the hydro.

Furnace

25. The Tenant testified the furnace stopped working and she notified the Landlord in February 2022, but never received a response.
26. The Tenant further testified she has had to rely on electric heaters and generators to produce heat which resulted in higher hydro bills. The Tenant testified her hydro was then cut off in July 2025 and she brought it to the attention of the Landlord. Also in July 2025, the Tenant moved into the barn and has expended funds winterizing and heating this building.
27. The Landlord testified payment of hydro is the responsibility of the Tenant under the lease and this was not disputed by the Tenant. I find that because the Tenant did not dispute the claim that the hydro was her responsibility, and the account was in her name the Landlord cannot be said to be responsible for the hydro.
28. However, I find the Landlord is in a serious and ongoing breach of their obligation to provide heat by repairing the furnace. The Tenant testified it was so cold in the house that the pipes broke in the winter.

Fireplace

29. The Tenant also testified she told the Landlord in 2022 that the fireplace needed repairing and servicing, and that the chimney had not been cleaned, but no action was taken. The Landlord did not seriously challenge the Tenant's evidence on these points.
30. In failing to repair the fireplace, the Landlord denied the Tenant an alternative means of heating her home, and withheld the vital service of heat.

Water pump

31. On November 1, 2025, the Tenant told the Landlord the outside well pump was not working properly, and it has not been repaired. Furthermore, the Tenant testified that since November 23, 2025, the well water has had a high sulphur concentration that makes it unsafe to drink. She fell ill from the water and was subsequently hospitalized, but did not produce any documentation about the water quality or her illness. She also testified that the water has fatally harmed some of her pets, and caused her to lose her source of income as it has prevented her from operating her dog grooming business. She told the Landlord on December 8, 2025, and no steps have been taken to remedy the issue.
32. While the Tenant did not produce any documentation about the water quality or medical issues for herself or the animals, I found her to be a credible witness and well organized, despite her misgivings at the outset. In contrast, I found the Landlord utterly underprepared, speechless and incredulous about their obligations.
33. Years have passed since they were notified about the furnace and appliances. The Landlord has a duty to keep the residential complex in a habitable condition and by failing to repair the furnace and maintain the hydroelectricity, the pipes have been damaged and the house is uninhabitable. As a result of the Landlord's failure to keep the rental unit in a habitable state, the Tenant has been living in the barn since July 2025.
34. Furthermore, there is no water supply on the property. When the Tenancy commenced the Landlord supplied water via pump, which as noted above broke and has not been fixed by the Landlord. Water and heat are vital services. There are children living on the property. The Landlord's failure to maintain the water is a serious and egregious breach of their s. 21 obligation that has endangered the health of all who live there.
35. I therefore find that the Landlord withheld vital services of water and heat from the tenant and this had an added and appreciable impact on the Tenant's ability to use and enjoy the residential complex from February 2022 to January 2026.
36. In my view, this is a shameful neglect of the Landlord's obligations to provide a habitation in a good state of repair that complies with health, safety and housing standards. Most people would not allow a stranger to live in such squalor, and here, her own parents inflict such living conditions.

Appliances

37. Fridge: The fridge broke in 2020. The Tenant indicated that she told the Landlord in 2020. No action was taken. She requests that the Fridge be replaced. The Landlord did not dispute her claim.
38. Shower: The downstairs shower leaks. The Tenant informed the Landlord in 2020 and no action was taken. The Landlord did not dispute her claim.
39. Given the above findings, I also note that even had I found the Landlord's N4 Notice valid, section 83(3) of the Act mandates that where a Landlord is in serious and ongoing breach of their duties and obligations under the Act, their application for termination must be dismissed, and I would have done so here.

RemediesA. Order to replace and repair appliances granted

40. The Tenant sought an order for repair with respect to the furnace, the water, the well water pump, broken pipes, fireplace, chimney and appliances. They shall be granted.

B. Abatement of Rent granted

41. The Tenant also sought abatement of more than 100% for the broken furnace and well pump. Abatement is a monetary award that may be expressed as a lump sum for the return of rent paid and generally reflects that what has been bargained for has not been received. A complete abatement of 100% is merited only when there is a complete deprivation of utility of the rental unit. An award of more than 100% abatement is not possible.
42. I find the condition that the Landlord has allowed to persist to be so reprehensible that, regardless of the fact that the Tenant has received some benefit of basic shelter in the barn, she has been otherwise completely deprived of the utility of the rental unit. I find an award of 100% abatement to be appropriate for the winter months November to April of 2024, 2025 and 2026.

C. Out-of-pocket expenses granted

43. The Tenant also sought her out of pocket expenses for purchasing 2 generators, and the cost of fuel to run these in the total amount of \$2,600.00, and \$300.00 for the purchase of bottled water so that she can cook and clean. I find these expenses to be reasonable. Because they stemmed from the Landlord's withholding of vital services, these out-of-pocket expenses shall be granted.

D. General Damages

44. The Tenant requested \$10,000.00 in general damages.
45. An award of general damages addresses the mental health impact upon a tenant because of a landlord's unlawful conduct. *Yusuf v Patel* 2025 ONLTB 19346 at para 74.
46. I accept that the Landlord's inaction and withholding of vital services impacted the Tenant's enjoyment of the property as well as her ability to work on the property. As I do not have evidence before me about her income or any documentation about her mental state, I decline to award general damages.

Administrative Fine

47. Pursuant to s. 57(3) of the Act, the Board has the authority to issue an administrative fine to enforce compliance with the Act and deter egregious conduct.
48. To do so, I must consider the nature and severity of the breach; the effect of the breach on the tenant; and any other relevant factors.
49. I find that the nature of the Landlord's breach in this case is serious and ongoing, it involved the withholding of vital services for years, a systemic and persistent ignoring of Tenant requests that have resulted in the decline of a habitable residence that has also destroyed the Tenant's ability to earn a living, caused her and her pets physical sickness, and resulted in the total inability to use the main house and be forced to live in the barn.
50. This behaviour demonstrates the Landlord's complete abdication of their obligations under the Act. Therefore, the Landlord shall pay \$5,000.00 to the Board for withholding vital services, allowing years of disrepair, and punitive neglect to the Tenant.

Filing Fee

As the Application was dismissed because the N4 was invalid, I decline to award the cost of the filing fee.

It is ordered that:

1. The Landlord shall treat, repair or replace the furnace, water in the house, the well-water pump, the broken pipes, fireplace, chimney and fridge. This will not be done at the expense of the Tenant.
2. The Landlord shall pay the Tenant \$19,100.00:
 - \$16,200.00 as a 100% abatement for the winter months (November-April) of 2024, 2025, and 2026.
 - \$2,900.00 for out-of-pocket expenses.

3. If the Landlord does not pay the Tenant the full amount owing by March 30, 2026, the Landlord will owe interest. This will be simple interest calculated from March 31, 2026 at 4.00% annually on the balance outstanding.
4. The Landlord shall pay a \$5,000.00 fine to the Board by **April 1, 2026.**

Date Amended: March 25,
2026

March 24, 2026
Date Issued

Vanessa Davies
Member, Landlord and Tenant Board