



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

File Number: LTB-L-108033-25

In the matter of: APT 3, 179 SAINT CLARENS AVE
TORONTO ON M6H 3W2

Between: Nestor Fernandez Landlord

and

Yauca De Almeida Tenant

Nestor Fernandez (the 'Landlord') applied for an order to terminate the tenancy and evict Yauca De Almeida (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on March 17, 2026.

The Landlord's representative, Marian Lipka, and the Tenant attended the hearing.

Determinations:

Tenant Issues

1. The Tenant wanted to raise maintenance issues in the unit. He indicated that he has uploaded documents to the Board's portal; however, these documents were not served on the Landlord or his representative in advance of the hearing. In addition, the Tenant did not provide a written description of each issue that he intends to raise. The Landlord's representative indicated that the Landlord did not have sufficient notice that the Tenant intended to raise section 82 issues at this hearing and that the Landlord was not prepared to respond.
2. I informed the Tenant that LTB Rule of Procedure 19.4 provides that a tenant who wishes to raise s.82 issues at a hearing must serve the Landlord and file with the Board a list of their issues as well as their supporting evidence at least seven days before the hearing. Further, Rule 19.5 states that a Tenant who fails to comply with Rule 19.4 shall not be permitted to raise these issues at the hearing unless the Board is satisfied that they could not comply. In addition, the Board provides tenants with information about how to raise issues under s.82 when serving the application and notice of hearing.

3. In this case, the Tenant did not comply with the requirements set out in the Act and the Board's rules. Although the Tenant has uploaded documents to the Board, he has not served those documents on the Landlord, and he has not uploaded a written description of each issue that he intends to raise. The Tenant stated that he was not aware of the Board's procedures. Given the submissions, I find that the Tenant had advance notice of this hearing and ample opportunity to raise s. 82 issues but he did not.
4. For this reason, I did not hear any evidence or submission with respect to the Tenant's s.82 issues. However, I informed the Tenant that he can bring his own T6 application against the Landlord regarding his maintenance issues.

L1 Application

5. 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.
6. As of the hearing date, the Tenant was still in possession of the rental unit.
7. The lawful rent is \$1,399.03. It is due on the 1st day of each month.
8. Based on the Monthly rent, the daily rent/compensation is \$46.00. This amount is calculated as follows: \$1,399.03 x 12, divided by 365 days.
9. The Landlord testified that the Tenant has not made any payments since the application was filed, and that the rent arrears owing up to March 31, 2026, are \$15,389.33.
10. Although, the Tenant agrees that he has not paid rent for the months of January 2026 to March 2026, he testified that he paid rent for the months of May 2025 to December 2025 and that the payments were made in cash and delivered to the Landlord's agent Carlos.
11. The Landlord testified that once payment is received, a rent receipt is provided to the Tenant. He indicated that he has not provided a rent receipt to the Tenant because he has not received rent for the months of May to December 2025 from the Tenant or from his agent Carlos.
12. In *Mauti v. Gibbs*, the Divisional Court explained that although the legal burden of proof is always on the Landlord to prove their case, once the Landlord provides evidence of non-payment, the Tenant bears an evidentiary burden to demonstrate that a disputed payment was made. If the tenant does not adduce evidence to counter or overcome the landlord's evidence, the landlord may or may not be found to have met their burden to prove the arrears on a balance of probabilities. The Court also noted that "as it is difficult to prove a negative (i.e. non-payment of rent), normally someone with appropriate knowledge on behalf of the landlord will simply testify that no money was received."¹
13. In this case, the Tenant did not provide any documentary evidence, such as bank records or receipts, to support the claim that additional payments were made that are not reflected in the Landlord's application. In addition, the N4 notice was served on November 28, 2025,

¹ *Mauti v. Gibbs*, 2019 ONSC 3355 (CanLII), at para 27

and the Landlord was claiming that the rent was outstanding for May to November 2025. I find it unlikely that the Tenant would continue to provide cash payments to an individual if his payments were not being acknowledged by the Landlord. However, the Tenant testified that he again met with Carlos on December 1, 2025 and provided him with \$1,400.00 cash.

14. I asked the Tenant as to why he did not summon the Landlord's agent Carlos to testify at the hearing, considering he allegedly provided cash payments to him directly. The Tenant replied that Carlos is rude and a racist.
15. In the absence of corroborating evidence or witness testimony, I do not find the Tenant's evidence to be sufficient to establish that he made additional cash payments to the Landlord's agent. Therefore, I find that the Tenant has not met the evidentiary burden that payments were made for the months of May to December 2025, and the arrears owing up to March 31, 2026 are \$15,389.33.
16. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
17. There is no last month's rent deposit.

Relief from Eviction

18. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act and find that it would not be unfair to postpone the eviction until April 30, 2026, pursuant to subsection 83(1)(b) of the *Residential Tenancies Act, 2006* (the 'Act').
19. The parties were unsuccessful resolving the issue of rent arrears through a payment plan. The Landlord sought an eviction order for termination and eviction with 11 days for the Tenant to pay off all outstanding amounts and void the order.
20. The Tenant stated that he is self-employed and testified regarding his income and expenses. The evidence establishes that the Tenant is unable to afford the current rent, and the arrears have accumulated to \$15,389.33. The Tenant has not made any payments since the application was filed. I find that the tenancy is not viable.
21. While the Landlord submitted that further delay or payment plan would cause prejudice, no documentary evidence was provided in support of that position. Therefore, based on the evidence before me I find that a brief postponement to April 30, 2026 is reasonable to allow the Tenant an opportunity to preserve his tenancy, or if necessary, secure alternative accommodation.

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 Board in trust:**

- \$15,575.33 if the payment is made on or before March 31, 2026. See Schedule 1 for the calculation of the amount owing.

OR

- \$16,974.36 if the payment is made on or before April 30, 2026. See Schedule 1 for the calculation of the amount owing.
3. The Tenant may also make a motion at the Board 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 April 30, 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 April 30, 2026.**
 5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$14,958.30. 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 \$46.00 per day for the use of the unit starting March 18, 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 April 30, 2026, the Tenant will start to owe interest. This will be simple interest calculated from May 1, 2026 at 4.00% annually on the balance outstanding.
 8. If the unit is not vacated on or before April 30, 2026, then starting May 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 May 1, 2026.

March 31, 2026

Date Issued

Adeela Alvez

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 November 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 Tenant 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	\$15,389.33
Application Filing Fee	\$186.00
Total the Tenant must pay to continue the tenancy	\$15,575.33

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before April 30, 2026

Rent Owing To April 30, 2026	\$16,788.36
Application Filing Fee	\$186.00
Total the Tenant must pay to continue the tenancy	\$16,974.36

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

Rent Owing To Hearing Date	\$14,772.30
Application Filing Fee	\$186.00
Total amount owing to the Landlord	\$14,958.30
Plus daily compensation owing for each day of occupation starting March 18, 2026	\$46.00 (per day)
**Ongoing daily compensation continues to accumulate until the total amount owing (excluding costs) is \$50,000.00.	