



Order under Section 69 Residential Tenancies Act, 2006

File Number: LTB-L-005971-26

In the matter of: Basement, 941 SHEPPARD AVE W
NORTH YORK ON M3H2T7

Between: Giuseppe Pacitto Landlord

And

Kim Fitzgerald Tenants
Aiden Fitzgerald

Giuseppe Pacitto (the 'Landlord') applied for an order to terminate the tenancy and evict Kim Fitzgerald and Aiden Fitzgerald (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on April 7, 2026.

Only the Landlord's Agent, Paul Pacitto, attended the hearing.

As of 1:37p.m., the Tenants were not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

Validity of the N4

1. The N4 notice of termination ("N4 Notice") contained two flaws, specifically that (a) the rental period claimed appeared to be from January 1, 2024, to October 1, 2026, and (b) the rental period appeared to run from the first of the month to the first of next month.
2. The Landlord's Agent noted that as it pertains to the first error, this was a typo and the "10" for the month was inverted and should have been "01" representing January instead of October. The Landlord indicated that if the N4 notice was in fact claiming rent through to October 2026 the amount claimed in the table would have been much higher as rent is \$2,000.00 per month.
3. As for the rental period running from the first to the first, the Landlord's Agent indicated that this is not prejudicial to the Tenant as the Tenant knows that the rental period is a month and the N4 notice is clear that the amount represents 25 months of rent.

4. The *Residential Tenancies Act*, 2006 (the “Act”) imposes mandatory requirements on the contents of notices of termination, most notably for current purposes in section 43, where the word “shall” is generally interpreted to set out a mandatory requirement of a form, notice, or document:

43 (1) Where this Act permits a landlord or tenant to give a notice of termination, the notice shall be in a form approved by the Board and shall,

(a) identify the rental unit for which the notice is given;

(b) state the date on which the tenancy is to terminate; and

(2) If the notice is given by a landlord, it shall also set out the reasons and details respecting the termination and inform the tenant that,

(a) if the tenant vacates the rental unit in accordance with the notice, the tenancy terminates on the date set out in clause (1) (b);

(b) if the tenant does not vacate the rental unit, the landlord may apply to the Board for an order terminating the tenancy and evicting the tenant; and

(c) if the landlord applies for an order, the tenant is entitled to dispute the application.

5. The failure to meet one of these mandatory provisions has often been held by the Board to a “fatal flaw” requiring the application to be dismissed. Without delving into past decisions, I believe notice may be taken of instances where this Board has dismissed applications in the past because of incomplete formal requirements such as partial addresses, incomplete rent tables, and the like.
6. Subsection 212(2) of the Act provides that an error in the contents of a form, notice, or document will still constitute substantial compliance with the Act provided the error does not significantly prejudice the party’s ability to participate in the proceeding.
7. In an uncontested matter, I consider the appropriate initial enquiry is whether there is objectively reasonable confusion from a flawed notice that might cause significant participatory prejudice. Were the Tenant present, it would be appropriate to determine whether any subjective factors result in significant participatory prejudice.
8. Here, I am satisfied that there is no reasonable confusion or significant prejudice from the error in dates or rental period. The rent table enumerates all rent arrears in a single line and clearly indicates that a total of \$44,400.00 was owing at the time the notice was served in January 2026. This amount is clearly not what would be due and owing if the N4 notice was alleging rent owing to October 2026. Furthermore, this is the amount owing for the rental period regardless of whether the rental period was properly stated in the table.
9. As such, I am satisfied the N4 notice substantially complies under section 212(2) of the Act.

The Application

10. The Landlord served the Tenants with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). The Tenants 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.
11. As of the hearing date, the Tenants were still in possession of the rental unit.
12. The lawful rent is \$2,000.00. It is due on the 1st day of each month.
13. Based on the Monthly rent, the daily rent/compensation is \$65.75. This amount is calculated as follows: \$2,000.00 x 12, divided by 365 days.
14. The Tenants have paid \$400.00 to the Landlord since the application was filed.
15. The rent arrears owing to April 30, 2026, are \$50,000.00.
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. The Landlord's Agent provided that they were unaware of any circumstance of the Tenants that would support denying or delaying eviction. The Tenants did not attend the hearing to give evidence of their circumstances, or to dispute the Landlord's application.
19. As such, 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 Tenants 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 Tenants is terminated unless the Tenants void this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$50,186.00 if the payment is made on or before April 24, 2026. See Schedule 1 for the calculation of the amount owing.
3. The Tenants may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenants have paid the full amount owing as ordered plus any additional rent that became due after April 24, 2026 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenants may only make this motion once during the tenancy.

4. **If the Tenants do not pay the amount required to void this order the Tenants must move out of the rental unit on or before April 24, 2026.**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$48,646.25. 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 Tenants shall also pay the Landlord compensation of \$65.75 per day for the use of the unit starting April 8, 2026, until the date the Tenants move out of the unit.
7. If the Tenants do not pay the Landlord the full amount owing on or before April 24, 2026, the Tenants will start to owe interest. This will be simple interest calculated from April 25, 2026, at 4.00% annually on the balance outstanding.
8. If the unit is not vacated on or before April 24, 2026, then starting April 25, 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 April 25, 2026.

April 13, 2026
Date Issued

Nicole Pedron
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 October 25, 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 Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before April 24, 2026

Rent Owing To April 30, 2026	\$50,400.00
Application Filing Fee	\$186.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$400.00
Total the Tenants must pay to continue the tenancy	\$50,186.00

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

Rent Owing To Hearing Date	\$48,860.25
Application Filing Fee	\$186.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$400.00
Total amount owing to the Landlord	\$48,646.25
Plus daily compensation owing for each day of occupation starting April 8, 2026	\$65.75 (per day)
**Ongoing daily compensation continues to accumulate until the total amount owing (excluding costs) is \$50,000.00.	