



Order under Section 69 / 88.2 Residential Tenancies Act, 2006

Citation: Wall v Smith-Menges, 2026 ONLTB 29413

Date: 2026-04-15

File Number: LTB-L-038996-25

In the matter of: 9645 HIGHWAY 15 N
Beckwith (Smith Falls) ON K7A0K3

Between: Abe Wall Landlords
First Franktown Service Ltd

And

Curtis Smith-Menges Tenants
Stephanie D'Amour

Abe Wall and First Franktown Service Ltd (the 'Landlords') applied for an order to terminate the tenancy and evict Curtis Smith-Menges and Stephanie D'Amour (the 'Tenants') because:

- the Landlords requires possession of the rental unit in order to convert the unit to a non-residential use.

The Landlords also claimed compensation for each day the Tenants remained in the unit after the termination date.

Abe Wall and First Franktown Service Ltd (the 'Landlords') also applied for an order requiring Curtis Smith-Menges and Stephanie D'Amour (the 'Tenants') to pay the Landlord's reasonable out-of-pocket expenses that are the result of the Tenant's failure to pay utility costs they were required to pay under the terms of the tenancy agreement.

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

The Landlord's Legal Representatives, Dong Liu and Nino Shallal attended the hearing. The Landlord, Abe Wall attended the hearing.

The Tenant's Legal Representative, John Wernham attended the hearing and was representing the Tenant, Stephanie D'Amour only. The Tenant, Stephanie D'Amour attended the hearing and appeared on behalf of the other Tenant, Curtis Smith-Menges.

Amending the Application:

1. The Landlord's Legal Representative had submitted an amended application to the Board. This amended application was not served on the Tenants. The only change on the amended application was to correct a clerical error where the original L2 application indicated the Tenants were no longer in possession and was corrected on the amended application to show the Tenants were still in possession of the rental unit.
2. I granted the request to amend the application to correct a clerical error as there was no prejudice to the Tenants in doing so.

Preliminary Issue:

3. The Tenant's Legal Representative raised a preliminary issue that the required one month's compensation had not been paid to the Tenant's prior to the termination date set out on the N13 notice, being September 30, 2025.
4. The Landlords confirmed that the required one month's compensation has not yet been paid to the Tenants.

5. Section 52 of the Act states in part:

52(2) A Landlords shall compensate a Tenants in an amount equal to one month's rent or offer the Tenants another rental unit acceptable to the Tenants if,

- (a) the Tenants receives notice of termination of the tenancy for the purposes of demolition or conversion to non-residential use;
- (b) the notice of termination is given on or after the day the Protecting Tenants and Strengthening Community Housing Act, 2020 receives Royal Assent;
- (c) the residential complex in which the rental unit is located contains fewer than five residential units; and
- (d) in the case of a demolition, it was not ordered to be carried out under the authority of any other Act. 2020, c. 16, Sched. 4, s. 6.

6. Section 55 of the Act states:

55.1 If the Landlords is required to compensate a Tenants under section 48.1, 49.1, 52, 54 or 55, the Landlords shall compensate the Tenants no later than on the termination date specified in the notice of termination of the tenancy given by the Landlords under section 48, 49 or 50. 2017, c. 13, s. 9; 2020, c. 16, Sched. 4, s. 8.

7. Section 83(4) of the Act states that the LTB cannot issue an eviction order if the Landlords has not complied with the compensation requirement.
8. The Landlords failed to compensate the Tenants an equal amount to one month's rent no later than the termination date of September 30, 2025. The Landlord's Legal

Representative stated that the Landlords did not pay the required compensation to the Tenants as they were trying to settle the application with the Tenants.

9. Therefore, the Landlord's application for termination of tenancy cannot be granted, and the Landlord's portion of the L2 application based on the N13 notice of termination is dismissed.
10. The application proceeded on a monetary claim only.

Determinations:

11. As explained below, the Landlords have proven on a balance of probabilities the claim for compensation in the application.
12. The Tenants were in possession of the rental unit on the date the application was filed.
13. The Landlords application is requesting unpaid utilities being hydro in the amount of \$3,052.20 for the period of January 23, 2024, to March 21, 2025.

Landlord's Evidence

14. The Landlord's Legal Representative stated they did not upload a copy of the lease agreement to Tribunals Ontario Portal showing the Tenants are responsible for the utility charge being the hydro.
15. The Landlords testified the lease agreement specifically states the Tenants are responsible to pay the hydro bill and was not sure why it had not been uploaded to the portal.
16. It was undisputed by the Tenants that the signed lease agreement dated December 28, 2022, identified the Tenants were responsible for the hydro charges.
17. The Landlord, Abe Wall testified he took sole ownership of the rental unit in October 2025.
18. At the hearing the Landlords provided copies of the hydro bills for the period of January 23, 2024, to March 21, 2025, which shows the amounts of the bills. A copy of the bills was also provided to the Tenant's Legal Representative. DOC-7716329.
19. The Landlords provided an email that was sent to the Tenants on April 22, 2025, that had a breakdown of the outstanding hydro bills in the amount of \$3,052.20. DOC-5946278.
20. The Landlords have paid the amount in full to the utility company.
21. The Landlord's Legal Representative asserts the commercial unit was not operating at the time of the outstanding hydro bills.

22. On cross examination, the Landlord stated the first time it was brought to his attention that the utilities bills were not being paid was April 22, 2025, and that is why he sent the email to the Tenants with the outstanding utility arrears.
23. On cross examination, he stated the Tenants had paid some of the hydro bills that had been sent to them individually in the past.
24. On cross examination, he testified his relationship with First Franktown Service Ltd is that originally, he loaned them money to purchase the residential complex, and they took possession sometime in 2023, and that he was on title for the residential complex. He stated that he was a silent partner.
25. On cross examination, he testified that in October 2025, he became the sole owner of the residential complex and was aware his rights and responsibilities as a Landlord.
26. On cross examination, he testified he was not involved with communications with the Tenants prior to him being the sole owner starting October 2025.
27. On cross examination, he testified that he sent the email to the Tenants in April 2025, as that was the date that he became aware the Tenants were not paying the hydro bill.
28. In cross examination, he testified he was not aware that his partners had not properly dealt with the unpaid utilities, and when he had knowledge of this, he sent the email to the Tenants.
29. On cross examination, he testified it was First Franktown Service Ltd that was named as the Landlords on the signed lease agreement with the Tenants.
30. On cross examination, he testified when he sent the email to the Tenants in April 2025, the hydro bills had been paid by the Landlords and there was a zero-balance owing as shown on the invoice dated March 28, 2025. DOC- 7716329.
31. On cross examination, he testified that First Franktown Service Ltd was paying the hydro bills as the bills come addressed to them.
32. On cross examination, he testified the email that he sent to the Tenants on April 22, 2025, was in reference to them not paying the hydro bill and they owed the Landlords this money.
33. On cross examination, he testified he did not provide the Tenants with an N11 notice for their consideration between January and April 2025.
34. On cross examination, he testified he had spoken to the Tenants, to see what their intentions were and if they planned on continuing to reside at the rental unit.
35. On cross examination, he testified they did not sign a new lease agreement changing the terms of the original lease agreement.

36. On cross examination, he testified he was a named Director for First Franktown Services Ltd but was a silent partner and did not have any desire to be involved with the business until he became the sole owner in October 2025.
37. On cross examination, he testified he was concerned the hydro bill was not being paid by the Tenants as per the lease agreement.
38. On cross examination, he testified since April 2025, the Tenants have since paid the new hydro bills as they became due.
39. On cross examination he testified the email from April 2025, with the hydro charges was for the Tenants to pay the utility bills as per lease agreement.

Tenant's Evidence

40. The Tenant, Stephanie D'Amour testified she was aware that the Tenants were responsible to pay the hydro bill when they signed the lease agreement with the Landlords. She stated they were supposed to get the information from the Landlords to put the utility in their name and after many failed attempts of trying to get the information for the utilities she heard nothing more of the utilities until the Landlord, Abe Wall took over ownership of the residential complex.
41. The Tenant's Legal Representative stated they are not disputing the amount owing on the hydro bills that the Landlord provided but they are disputing whether the electricity was used by the residential portion of this complex as opposed to the commercial portion.
42. Based on the configuration of the building they are disputing that the electricity that the Landlords are stating the Tenants are responsible for paying for was not used by the Tenant and was used by the commercial unit on the main floor.
43. The Tenant's Legal Representative stated there was correspondence that stated the Landlord's would take care of these utility charges and these charges only became an issue after the Tenant's refused to sign an N11.
44. The Tenant's Legal Representative states the Landlord, Abe Wall had a conversation with the Tenant's in the Spring of 2025, regarding his intentions to establish a commercial operation on the ground floor of the residential complex and wanted to know if the Tenants were planning on moving out. He states logically it follows there was an offer for the Tenants to move out which was refused by the Tenants and led to the filing of this application.

Analysis

45. The Board gained the jurisdiction to order a Tenants to pay unpaid utilities effective September 1, 2021, when section 88.2 of the Act came into force:

88.2 (1) A Landlords may apply to the Board for an order requiring a Tenants or former Tenants to pay costs described in subsection (4) if,

- a) while the Tenants or former Tenants is or was in possession of the rental unit, the Tenants or former Tenants failed to pay utility costs that they were required to pay under the terms of the tenancy agreement; and
- b) in the case of a Tenants or former Tenants no longer in possession of the rental unit, the Tenants or former Tenants ceased to be in possession on or after the day section 20 of Schedule 4 to the Protecting Tenants and Strengthening Community Housing Act, 2020 comes into force. 2020, c.16, Sched. 4, s. 20.

Application under subs. (1)

(2) An application under subsection (1) may be made,

- a) while the Tenants is in possession of the rental unit; or
- b) no later than one year after the Tenants or former Tenants ceased to be in possession of the rental unit. 2020, c. 16, Sched. 4, s. 20.

Same

(3) If the Board makes an order requiring payment under subsection (1) and for the termination of the tenancy, the Board shall set off against the amount required to be paid by the Tenants the amount of any rent deposit or interest on a rent deposit that would be owing to the Tenants on termination. 2020, c. 16, Sched. 4, s. 20.

Compensation for failure to pay the utility costs

(4) The costs referred to in subsection (1) are reasonable out-of-pocket expenses that the Landlords has incurred or will incur as a result of a Tenant's or former Tenant's failure to pay utility costs that they were required to pay under the terms of the tenancy agreement. 2020, c. 16, Sched. 4, s. 20.

- 46. It was undisputed by the parties the lease agreement that was signed between the parties required the Tenants to pay for the hydro charges.
- 47. The Tenants state they did not set up the utility bills in their name as they were waiting for information from the Landlords to be able to do so. There was no evidence provided from the Tenants that this was the case.
- 48. I accept the hydro bills were in the name of the Landlords and paid directly to the hydro company by the Landlords.

49. I do not accept that a portion of this utility bill was for the commercial unit located in the residential complex on the main floor. I accept the Landlord's position the commercial unit was not operating at the time of the outstanding hydro bills. In the Tenants own submissions it was stated the Landlord, Abe Wall had communications with the Tenants in the Spring 2025, that he planned to establish a commercial unit and the utilities owing in this application are up until March 21, 2025.
50. I am persuaded by the Landlord's testimony that he did not provide a draft copy of an N11 to the Tenants. I accept he had a conversation with the Tenants to see what their intentions were and if they planned on staying at the rental unit. I do not find the application was filed because the Tenants did not agree to sign an N11. The Tenants did not provide a copy of an N11 that was drafted by the Landlords or any other relevant communications.
51. I do not accept the Tenants assertion that the Landlords stated they would take care of the hydro bill. The Tenants did not provide any evidence of such. I accept the Landlords paid the utility amount directly to the utility company as the bills were in their name, however, this does not mean they agreed to take responsibility for the Tenants obligation to pay the hydro charges as agreed in the lease.
52. I find the Landlords did not provide copies of the utility bills to the Tenants in a timely fashion. The Landlord, Abe Wall was a Director of First Franktown Service Ltd and had an obligation to ensure that these bills were provided to the Tenants. I accept that he only became aware of the Tenants not paying the bills in April 2025, as his partners had failed to provide copies to the Tenants.
53. I accept that immediately after he became aware the hydro bills had not been paid by the Tenants, he provided the Tenants with a breakdown of the utilities owing and copies of the utility bills. I do not accept the Tenants argument that this email was not a demand for payment but rather just a summary of the utility bill that had been charged to the Landlords. The Tenants signed a lease agreement they were responsible to pay the utilities and there would be no other logical reason why these amounts were being sent to the Tenants.
54. There was no dispute between the parties the Tenants are responsible to pay the hydro charges. Since the application was filed the Tenants have paid the hydro charges.
55. I accept the Landlords were late in providing the Tenants the outstanding hydro bill amounts and should have done this in a timelier manner, however, this does not constitute a waiver of the Tenants obligations to pay for the hydro charges. There was no evidence before me to suggest there was a new lease signed that took away the Tenants obligation for hydro charges or that there was a mutual cancellation of this obligation.
56. I find the Landlord's failure to provide the Tenant's with the hydro bills in a timely manner and within a reasonable time after they became due and paid by the Landlords has put the Tenants in a financial position as the outstanding balance is substantial. Therefore, I find

that an extended payment plan for the hydro charges owing is appropriate in the circumstances.

57. The Landlords have incurred reasonable out-of-pocket expenses of \$3,052.20 as a result of the Tenant's failure to pay the electricity costs.

It is ordered that:

1. The Landlord's L2 application for termination of tenancy is dismissed.
2. The Tenants shall pay to the Landlords \$3,052.20, which represents the reasonable out-of-pocket expenses the Landlords have incurred as a result of the unpaid utility costs.
3. The Tenants shall also pay to the Landlords \$186.00 for the cost of filing the application.
4. The total amount the Tenants must pay the Landlords is \$3,238.50.
5. The Tenants shall pay the amount from Paragraph 4 to the Landlords as described below:
 - On or before the 1st day of the month starting May 1, 2026, until April 1, 2028, the Tenants will pay the Landlords the amount of \$130.00.
 - On or before the 1st day of May 1, 2028, the Tenants shall pay the Landlord the amount of \$118.50.
6. If the Tenants do not pay the Landlords the full amount owing on or before the day the payment is due, the Tenants will start to owe interest. This will be simple interest calculated from the day after the payment is due at 4.00% annually on the balance outstanding.

April 15, 2026
Date Issued

Trish Carson
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.