



Order under Section 69 Residential Tenancies Act, 2006

Citation: Chen v Biswas, 2026 ONLTB 30144

Date: 2026-04-15

File Number: LTB-L-053655-25

In the matter of: Unit 3B, Room 1, 345 SPADINA AVE
TORONTO ON M5T2G3

Between: Fen Chen Landlord

And

Nahian (Ryan) Biswas Tenant

Fen Chen (the 'Landlord') applied for an order to terminate the tenancy and evict Nahian (Ryan) Biswas (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on April 9, 2026. The Landlord's Representative, Hoi Fan Alvin Chan, and the Tenant attended the hearing.

Determinations:

Preliminary Issue:

Adjournment Request

1. The parties requested an adjournment on consent because the Tenant had filed an T2/T6 application which may affect the outcome of the L1 matter before me. However, the Tenant explained he had missed the scheduled Adjudicative Case Conference ('ACC') held on T2/T6 April 1, 2026, and the matter had been dismissed. The Tenant advises he planned to file a motion to set aside Order LTB-T-076904-25, issued April 7, 2026. However, as there were overlapping issues, the parties requested that this matter be adjourned so the Tenant could file a motion to have Order LTB-T-076904-25 set aside, and then the matters could be combined.
2. In reviewing the history of this application, the matter had been before the Board on September 3, 2025. At that time, the matter had been adjourned on consent. In the notes field of the adjournment sheet, it states that "Tenant was advised that if he intends to raise s.82 issues, a proper list with remedies must be submitted. Tenant sent a few emails with screenshots."

3. The Board's records indicate that the Tenant forwarded a list of "updated issues" to the Board by e-mail on September 17, 2025. It attached a copy of the Issues a Tenant Intends to Raise at a Rent Arrears Hearing ('s.82 form') form and listed two issues: mold issues and negligence. However, neither remedy stated an abatement. Rather, the form requested the Landlord perform maintenance.
4. When considering the request for an adjournment, I must consider the following factors as found in the Board's Rule 21 and Guideline 1 Adjourning and Rescheduling Hearings:
 - the reason for the adjournment and position of the parties;
 - the issues in the application;
 - any prejudice that may result from granting or denying the request;
 - the history of the proceeding including other adjournments or rescheduling;
 - the LTB's obligation 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.
5. After considering the parties' submissions, I found that a further adjournment was not warranted on the basis of the request to delay the matter until the outcome of the motion and request to combine could be heard. The matter had been adjourned once previously, and the Tenant was put on notice at that time that he needed to address his section 82 issues. The arrears are significant, resulting in prejudice to the Landlord.
6. In my view, the Tenant had the onus to prepare for the hearing and was told about this in September 2025. Although the Tenant made the decision to file his own T2/T6 application, it was incumbent upon him to exercise due diligence to attend the ACC as required or amend his s.82 list to include the issues he wanted to raise. The Tenant was clearly aware he could raise issues by way of s.82 at this hearing. However, the Tenant seems to have relied on his T2/T6 applications rather than taking the appropriate steps to ensure his concerns could be addressed during the L1 hearing. Further, the Tenant is free to re-file his T2/T6 applications.
7. As such, I was not persuaded that it was appropriate to adjourn the matter further.

Motion to Set Aside LTB-T-076904-25

8. During the hearing, the Tenant filed his motion to have Order LTB-T-076904-25 set aside. Because I would be seized on the Landlord's L1 matter, I advised the parties could come before me to have the motion adjudicated on, and that I would adjourn the L1 hearing. A date was set for the parties to reattend on April 20, 2026, to make adjournments on the motion.
9. However, on April 10, 2026, the Tenant's motion request was reviewed by a fellow Member, who denied the Tenant's motion. As such, this matter has already been finally decided. I cannot find any reason to go behind the Member's decision. Thus, there is no longer any need to hear arguments on the motion as I had initially indicated.
10. Therefore, this order is a final decision of the matter which was before me.

Landlord's L1 Application

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 \$850.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$27.95. This amount is calculated as follows: \$850.00 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to April 30, 2026, are \$15,750.00.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. There is no last month's rent deposit.
9. The Tenant was able to raise the section 82 issues which he had already put forward on the s.82 form he submitted. However, without any corresponding abatement request, this would not have impacted the amount of rental arrears claimed.
10. Regardless, the Tenant was able to make submissions pursuant to Section 83(3)(a) of the Act, which states that the Board must mandatorily refuse to grant a Landlord's application for eviction where a landlord is in serious breach of any material covenant of the tenancy agreement. In this case, the Tenant alleges the Landlord is in serious breach of their maintenance obligations.
11. In the Tenant's submissions, he explained there was a significant mold problem in the rental unit around the bathtub. However, he explained that he had not had any mold testing done. He explains he believes it is mold because unlike mildew, the mold reappears. He also explained that there have been ongoing issues with the heat in the residential unit. I asked the Tenant to advise what the heat was at that moment. He states it was 21 degrees but says it feels much colder than what the thermostat reports.
12. The leading case that states the test for "serious" breach is *Puterbough v. Canada (Public Works and Government Services)* [2005] O.J. No 5727 [hereinafter *Puterbough*]. In the *Puterbough* case, paragraph 22 of the decision states that "serious breach", in the context of the Landlord's maintenance responsibilities: "means more than the rental premises being in poor condition and in need of significant work...In short, a serious breach of the landlord's responsibilities is not established simply by the rental premise being in need of extensive repairs."
13. Given the evidence before me, I am unable to conclude that the Landlord is in serious breach of his maintenance obligations which would warrant a mandatory refusal to grant the Landlord's application. The mold issue may be serious, but there is no conclusive evidence to support whether the problem is mold or mildew, or whether the mold is

dangerous. The same issue applies to the heat. Although I have no reason to question the Tenant's allegations the rental unit is cold, there was no proof to support this. The Tenant's evidence indicated the thermostat showed the temperature as 21 degrees.

14. The Tenant's circumstances are that he lives alone and has lived in the rental unit since 2022. Last year, he had a motor vehicle accident which left him with a significant disability. Currently he is in receipt of regular insurance payments. The Tenant indicated that he stopped paying the rent because of the maintenance problems. Although his income is sufficient to pay the rent, he says he has little left over after paying for other expenses. When the Tenant was asked how he might address the arrears, he explained that he is expecting a large lump-sum payment resulting from the insurance claim due to his injuries.
15. Given the Tenant's evidence, I am not satisfied that the Tenant can meet the monthly rent payments and make a reasonable repayment each month. Although the Tenant may be expecting an influx of income in the future, it is difficult to establish when that could happen. Therefore, I am not of the view that a conditional order is appropriate in the circumstances.
16. However, given the length of the tenancy, the Tenant's maintenance concerns and disabilities, in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and I find that it would not be unfair to postpone the eviction until May 31, 2026, pursuant to subsection 83(1)(b) of the Act.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.
 - \$15,936.00 if the payment is made on or before April 30, 2026. See Schedule 1 for the calculation of the amount owing.
- OR**
- \$16,786.00 if the payment is made on or before May 31, 2026. See Schedule 1 for the calculation of the amount owing.
2. The Tenant may also make a motion at the LTB 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 May 31, 2026 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.
3. **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 May 31, 2026.**
4. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$15,337.55. 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.
5. The Tenant shall also pay the Landlord compensation of \$27.95 per day for the use of the unit starting April 10, 2026, until the date the Tenant moves out of the unit.

6. If the Tenant does not pay the Landlord the full amount owing on or before May 31, 2026, the Tenant will start to owe interest. This will be simple interest calculated from June 1, 2026 at 4.00% annually on the balance outstanding.
7. If the unit is not vacated on or before May 31, 2026, then starting June 1, 2026, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
8. 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 June 1, 2026.

April 15, 2026
Date Issued

Jane Dean
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 December 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 April 30, 2026

Rent Owing To April 30, 2026	\$15,750.00
Application Filing Fee	\$186.00
Total the Tenant must pay to continue the tenancy	\$15,936.00

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before May 31, 2026

Rent Owing To May 31, 2026	\$16,600.00
Application Filing Fee	\$186.00
Total the Tenant must pay to continue the tenancy	\$16,786.00

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

Rent Owing To Hearing Date	\$15,151.55
Application Filing Fee	\$186.00
Total amount owing to the Landlord	\$15,337.55
Plus daily compensation owing for each day of occupation starting April 10, 2026	\$27.95 (per day)
**Ongoing daily compensation continues to accumulate until the total amount owing (excluding costs) is \$50,000.00.	