



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

**Citation:** Nucara v Pennell, 2026 ONLTB 30317

**Date:** 2026-04-13

**File Number:** LTB-L-002482-26

**In the matter of:** 2, 343 LANSDOWNE AVE  
NORTH BAY ON P1B6Y3

**Between:** Frank Nucara Landlord

**And**

Joseph Pennell Tenant

Frank Nucara (the 'Landlord') applied for an order to terminate the tenancy and evict Joseph Pennell (the 'Tenant') because:

- the Tenant has been persistently late in paying the Tenant's rent.

This application was heard by videoconference on March 9, 2026.

The Landlord and the Tenant attended the hearing.

### **Determinations:**

1. On January 9, 2026, the Landlord gave the Tenant an N8 notice of termination. The notice alleges the Tenant has persistently paid their rent late.
2. The Tenant has persistently failed to pay the rent on the date it was due. The rent is due on the first day of each month. The rent has been paid late 12 times in the past 12 months.
3. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

### ***Relief from Eviction***

4. The Tenant does not dispute that rent has been paid late on a consistent basis. Based on the evidence, I find that the Tenant has persistently paid rent late within the meaning of the Residential Tenancies Act, 2006 (the "Act").
5. I must next consider whether to grant relief from eviction under section 83 of the Act.

6. The Tenant testified that his financial difficulties were caused by delays in government benefits, CRA issues, and circumstances related to identity theft, which have now been resolved. He now receives income from Ontario Works and the Portable Housing Benefit, which he submits is sufficient to cover the monthly rent.
7. The Landlord submits that the Tenant cannot afford the rental unit and that the pattern of late payment will continue.

### *Analysis*

8. The Act is remedial legislation and the courts have determined that evicting a tenant is a remedy of last resort. In the cases of *Sutherland v. Lamontagne*, [2008] O.J. No. 5763 (Div. Ct.) and *Paderewski Society v. Ficyk*, [1998], the Divisional Court stated,

*“To put somebody out of their home must, in my view, call for clear and compelling circumstances that it’s no longer possible for the arrangement to continue.”*

9. In other words, eviction should only be ordered if it is not possible to bring a tenancy back into good standing. Where that is possible, it should be done rather than terminating the tenancy.
10. Second, compared to the other reasons a tenancy can be terminated, persistent late payment is a minor issue. In my view, it should not serve as a reason to terminate the tenancy unless it really cannot be remedied. Landlords are entitled to be paid on time, but eviction would be a serious consequence to a comparatively minor wrong.
11. For those reasons, tenants should generally be given an opportunity to start paying on time where they promise to do so, as is the case here
12. While the Tenant has a history of late payments, I am satisfied that his financial situation has recently stabilized and that he is able to pay the rent in full and on time going forward.
13. Therefore, I find it appropriate to allow the Tenant an opportunity to make good on their promise to bring the tenancy back into good standing.
14. To comply with this order, the Tenant shall pay all outstanding rent owing as of March 1, 2026, by April 30, 2026. The rent due for April 1, 2026, shall be paid no later than May 31, 2026.
15. 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 grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.

### **It is ordered that:**

1. The tenancy between the Landlord and the Tenant continues if the Tenant meets the conditions set out below.
2. The Tenant shall pay the rent due March 1, 2026, on or before April 30, 2026.
3. The Tenant shall pay the rent due April 1, 2026, on or before May 1, 2026.

4. The Tenant shall also pay to the Landlord new rent on time and in full as it comes due and owing for the period May 1, 2026, to April 30, 2027.
5. If the Tenant fails to comply with the conditions set out in paragraphs 2, 3 and 4 of this order, the Landlord may apply under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') for an order terminating the tenancy and evicting the Tenant. The Landlord must make the application within 30 days of a breach of a condition. This application is made to the LTB without notice to the Tenant.
6. The Tenant shall pay to the Landlord \$186.00 for the cost of filing the application.
7. If the Tenant does not pay the Landlord the full amount owing on or before April 24, 2026, the Tenant will start to owe interest. This will be simple interest calculated from April 25, 2026 at 4.00% annually on the balance outstanding.

**April 13, 2026**  
**Date Issued**

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Bryan Delorenzi  
Member, Landlord and Tenant Board

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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.