



Order under Section 69 Residential Tenancies Act, 2006

Citation: METCAP LIVING MANAGEMENT INC. v Mugenga, 2026 ONLTB 30818

Date: 2026-04-21

File Number: LTB-L-071603-25

In the matter of: 110, 10 RUNNYMEDE RD
KINGSTON ON K7M2A1

Between: Metcap Living Management Inc.

Landlord

And

Constantin Mugenga

Tenant

Metcap Living Management Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Constantin Mugenga (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on April 14, 2026.

The Landlord's legal representative, K. Hernandez, and the Tenant attended the hearing.

Determinations:

1. At the outset of the hearing, the Landlord's representative, requested to withdraw the L1 application. The Tenant opposed the request on the basis that his section 82 issues have not been addressed. The Landlord's representative submitted that the section 82 issues have not been served by the Tenant.
2. There is no dispute that at the November 12, 2025 hearing, a different representative for the Landlord attended and became aware that the Tenant intended to raise section 82 issues. The Tenant submits that the Landlord was also aware of these issues through prior e-mail communications. While the e-mails demonstrate that the Tenant raised concerns before the L1 was filed, they do not constitute proper service of section 82 issues in accordance with the Board's requirements.
3. Section 82 of the *Residential Tenancies Act, 2006*, the ("Act"), provides that, at a hearing of an application by a landlord under section 69 for an order terminating a tenancy and evicting a tenant based on a notice of termination under section 59, the Board shall permit the tenant to raise any issue that could be the subject of an application made by the tenant under this Act if the tenant,

- (a) complies with the requirements set out in subsection (2); or
- (b) provides an explanation satisfactory to the Board explaining why the tenant could not comply with the requirements set out in subsection (2).

Requirements to be met by tenant

(2) The requirements referred to in subsection (1) are the following:

1. The tenant shall give advance notice to the landlord of the tenant's intent to raise the issue at the hearing.
2. The notice shall be given within the time set out in the Rules.
3. The notice shall be given in writing and shall comply with the Rules.
4. Rule 19.4 of the Board's Rules of Procedure provide that, unless the LTB has directed or ordered otherwise, a tenant who intends to raise issues under sections 82(1) or 87(2) of the RTA during a hearing for a landlord's application about rent arrears shall provide the other parties and the LTB with the following at least 7 days before the scheduled CMH or hearing:
 1. a written description of each issue the tenant intends to raise; and
 2. a copy of all documents, pictures and other evidence that the tenant intends to rely upon at the hearing.
5. In this case, I am not satisfied that the Tenant complied with disclosure requirements set out in Rule 19.4. While the Tenant may have raised concerns in prior e-mail communications, prior to the L1 application being filed, this does not constitute proper notice in accordance with the Board's Rules. As a result, the Tenant was not permitted to raise section 82 issues at the hearing.
6. In the absence of any properly raised section 82 issues, and pursuant to section 200(2) of the Act, the Landlord's request to withdraw the application is granted. There is no prejudice to the Tenant in permitting the withdrawal, as the Tenant maintains the right to file a separate application.

It is ordered that:

1. The application having been withdrawn, the LTB's file is closed.

April 21, 2026
Date Issued

Mayra Sawicki
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.