



Order under Section 69 / 88.2 Residential Tenancies Act, 2006

Citation: Beniwal v Nanda, 2026 ONLTB 29249

Date: 2026-04-20

File Number: LTB-L-100252-25

In the matter of: BASEMENT UNIT # 1, 7440 HOMESIDE
GDNS
MISSISSAUGA ON L4T2A7

Between: Rekha Beniwal Landlord

And

Rishav Nanda Tenants
Osheen Dewan

Rekha Beniwal (the 'Landlord') applied for an order to terminate the tenancy and evict Rishav Nanda and Osheen Dewan (the 'Tenants') because:

- the Tenants did not pay the rent that the Tenant owes (L1 Application)
- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant (L2 Application)

The Landlord also applied for an order requiring the Tenants to pay the Landlord's reasonable out-of-pocket expenses that are the result of the Tenants' failure to pay utility costs they were required to pay under the terms of the tenancy agreement.

This application was heard by videoconference on March 25, 2026.

The Landlord's Representative, Silvat Syed, the Landlord, the Tenants' Representative, Yuvraj Bhullar, and the Tenant, Rishav Nanda, attended the hearing.

Preliminary Issue:

1. The Landlord's representative requested to amend the application to include the additional out-of-pocket utility expenses that were not included in the original application filed on December 2, 2025. She requested that the Board allow the amendment to the application to increase the claim from \$553.53 to \$892.00, as this is the current amount owing to the

period ending March 31, 2026, for the unpaid utility costs. The Landlord's representative also testified that disclosure was emailed to the Tenants' representative prior to the hearing which included the total amount owing that the Landlord is requesting.

2. The Tenant was not opposed to the amendment and agreed with the amount owing.
3. I consented to the request to amend the application, pursuant to section 200(1) of the Act and Rule 15.3 of the Board's Rules of Procedure.

Determinations:

L1 Application

4. 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.
5. As of the hearing date, the Tenant was still in possession of the rental unit.
6. The lawful rent is \$1,100.00. It is due on the 1st day of each month.
7. Based on the Monthly rent, the daily rent/compensation is \$36.16. This amount is calculated as follows: \$1,100.00 x 12, divided by 365 days.
8. The Tenant has not made any payments since the application was filed.
9. It was undisputed that the rent arrears owing to March 31, 2026 are \$8,800.00.
10. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
11. The Landlord collected a rent deposit of \$1,100.00 from the Tenant and this deposit is still being held by the Landlord. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.
12. Interest on the rent deposit, in the amount of \$24.37 is owing to the Tenant for the period from March 6, 2025 to March 25, 2026.

Relief from Eviction

13. The Tenants are seeking to preserve their tenancy with a payment plan to pay the Landlord the outstanding rent arrears. The Tenant, Rishav Nanda ('RN'), testified that he has not paid the rent due to issues with the tenancy. RN said their family receives a combined income of approximately \$3,600.00 monthly from all sources, and that their expenses are approximately \$3,500.00, including rent. The Tenants requested a repayment plan of \$500.00 a month for a period of 18 months, or in the alternative, a delay of eviction of 4 months.
14. The Landlord opposed any further relief and sought termination of the tenancy due to the amount of the rental arrears and the increased financial hardship she and her family have experienced as a result of the Tenants non-payment of rent. The Landlord provided oral

testimony that her husband has medical issues due to ALS, so she has been his main caregiver for the past year, and the financial hardship has caused increased stress for her as they rely on their rental property to support them financially.

15. Based on the evidence and submissions before me, I find that the Tenants' payment plan is not sustainable as their income does not appear to be sufficient to meet the terms of the payment plan.
16. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and 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. Taking into account that the arrears are very high and the financial hardship the Landlord has incurred, there is significant prejudice to the Landlord if the tenancy continues. I have also considered the Tenants' circumstances stated in the hearing and their ongoing non-payment of rent. Due to the issuance date of this order and the inevitable delay with respect to enforcement of this order through the Sheriff's office, the Tenants have essentially been given some relief sought. No additional time shall be given.

L2 Application – Utility Arrears

17. On November 14, 2023, the Landlord gave the Tenants a voidable N5 Notice of Termination ('N5 notice'), deemed served on the same day. The N5 notice contains the following allegations:
 - The Tenants failed to pay the agreed-upon portion of the utility bill, as required by the rental agreement, despite having been provided with all of the relevant bills.
18. The Tenants did not correct the omission within seven days after the N5 notice and pay the outstanding utility bills.
19. The Landlord submitted the rental agreement which indicates that the Tenants are responsible for 20% of the utility charges.
20. The Tenant did not dispute the Landlord's evidence and admitted that he did not pay the utility arrears owing to the Landlord.
21. It was the Landlord's uncontested testimony that she paid the utility bills in question and each of the bills were sent to the Tenants, and that the Tenants did not make the payments to them as required under the lease. The Landlord submitted the utility bills, along with a chart reflecting the 20% portion that the Tenants were required to pay.

Water, Hydro, Gas, and Hot Water Heater Fees

22. In support of her claim, the Landlord provided all of the invoices from Enbridge, Alectra, and Reliance with the outstanding utility arrears for the period of August 1, 2025 to March 31, 2026.
23. The *Residential Tenancies Act, 2006* ('Act') section 88.2(1) states:

A landlord may apply to the Board for an order requiring a tenant or former tenant to pay costs described in subsection (4) if,

1. while the tenant or former tenant is or was in possession of the rental unit, the tenant or former tenant failed to pay utility costs that they were required to pay under the terms of the tenancy agreement.
24. Subsection 88.2(4) states, "The costs referred to in subsection (1) are reasonable out-of-pocket expenses that the landlord 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.
25. On the uncontested evidence before me, I find that the Tenants failed to pay the utility costs that they were required to pay under the terms of the tenancy agreement. On the evidence before me, I also find that the Landlord has incurred reasonable out-of-pocket expenses of \$892.00 as a result of the Tenants' failure to pay water costs on the basis of the invoices entered into evidence. The Tenants will be ordered to pay this amount to the Landlord.

Section 82 - Tenant Issues in Non-Payment of Rent Application

26. Pursuant to s. 82 of the Act, the Tenants raised both repair and maintenance issues in the rental unit and tenant rights issues. These issues may lead to an abatement of rent which would be set off against any arrears of rent owing to the Landlord.
27. The Tenants alleged that the Landlord failed to maintain the residential unit in a good state of repair and fit for habitation and failed to comply with maintenance standards in relation to: (1) improper drainage system; (2) poor ventilation due to broken fan on the Air conditioning system (3) improper cooling and heating system; and, (4) lack of snow removal for specific parking spot.
28. Section 20(1) of the Act holds that the Landlord is responsible for providing and maintaining the rental unit in a good state of repair and fit for habitation and for complying with health, safety, housing and maintenance standards.
29. In *Onyskiw v. CJM Property Management Ltd.*, 2016 ONCA 477, the Court of Appeal held that the LTB should take a contextual approach and consider the entirety of the factual situation in determining whether there was a breach of the landlord's maintenance obligations, including whether the landlord responded to the maintenance issue reasonably in the circumstances. The court rejected the submission that a landlord is automatically in breach of its maintenance obligation as soon as an interruption in service occurs.
30. The rental unit is located within a triplex house, which consists of a main floor unit and two basement units. The Tenants reside in Basement Unit #1.
31. The tenancy began on April 1, 2025.

Improper Drainage System Causing Excessive Noise

32. RN testified that he notified the Landlord about the issue on April 11, 2025, by sending her a text message and then followed up with a phone call. RN explained that the improper drainage system from the main floor tenant was causing excessive noise in the basement, especially during the evening when they were attempting to sleep. RN said the sounds were excessive and caused him to wake up and disturbed his sleep. RN explained that the sound was not consistent and usually occurred after the main floor tenants would clean up after having dinner.
33. RN said a plumber attended the property within a week after notifying the Landlord although the issue was not fully resolved to the date of the hearing. RN stated that the plumber told him the issue was due to the small pipes used in the property and the water pipes needed to be increased in size.
34. The Landlord did not dispute that she was made aware of the issue on April 11, 2025. She provided oral testimony that she immediately responded and contacted a plumber to investigate the issue approximately one week later, the company used a plumbing snake to unclog the main level kitchen sink from a clog. The Landlord stated that there was a total of 3 visits from the plumber between April and July 2025 in attempts to resolve the sound issues. The Landlord said the plumber did not find any further issues after their final visit.
35. The Landlord said that after July 22, 2025, the last visit from the plumber and when she received confirmation from the Tenant saying the issue was fixed, she did not receive any further complaints from the Tenants about the issue until eight months later, in March of 2026, and again she responded by contacting the plumber to clear the drain. The Landlord admitted that the sound of the water through the pipes may have been heard at times, there was nothing further that could be done and there was no maintenance issue. The Landlord also disputed the hearsay evidence of the Tenant that the plumber told him the issue was due to the size of the water pipes used in the house.
36. Based on the evidence before me, I do not find the Landlord breached their obligations under s. 20 of the Act. I find that the Landlord reasonably responded in a timely fashion to the Tenants' request about improper drainage issues, which resulted in excessive noises in the pipes, and the issue was resolved on July 22, 2025. The Tenant admitted that he did not notify the Landlord again until March 2026 and admitted that the Landlord responded immediately and resolved the issue. Further, the Tenants could not prove that the issues were ongoing since the repair in July 2025, and as a result of the work not being done properly.
37. I find that the Landlord responded reasonably and timely to the Tenants' maintenance requests and resolved the issues. In addition, I find it more likely than not that the Tenants water drainage issues are actually sounds of normal daily living which are common in multi-level living. Therefore, the claim for improper water drainage in the basement is dismissed as the Tenant's failed to meet the burden of proof to establish that the Landlord breached their maintenance obligations under the Act.

Inadequate Ventilation and Inadequate Cooling in Unit

38. RN testified that they notified the Landlord about inadequate ventilation in the basement in April 2025 but did not provide specific dates and text messages to support his testimony. He said the fan was not working on the air conditioner unit and this resulted in uncomfortable air flow inside the unit. The Tenant submitted a video showing a single piece of paper placed over a vent, which was not moving at the time, to evidence that the fan was not properly circulating the air at the time the video was taken.
39. RN also testified that the air conditioner did not provide sufficient cooling for them because he believed the tenants on the main floor would frequently turn off the air conditioner for the residential complex. RN said he verbally notified the Landlord about the issue on or about May 12, 2025 and then again via text message on July 7, 2025.
40. The Landlord did not dispute that she received complaints about the lack cooling the in the basement from the Tenant beginning July 7, 2025, and said they responded to each complaint within a timely matter. She stated that the new air conditioner was purchased and installed in August 2024, and because the system was still under warranty, the HVAC company performed a service call on or around July 13, 2025, and they did not find that the air conditioning system was improperly working, and it was in good order and operating properly throughout the residential complex.
41. The Landlord also testified that when the Tenant notified her on August 27, 2025, about the fan not working on the air conditioner, she attended the property on the same day at around 3:00 p.m., where she found the fan blowing. A video from that visit of the working fan was submitted as evidence to support her testimony.
42. The Landlord further testified that she had a smart thermometer installed at the property, which was automatically set between 22-23 degrees, as a way to resolve the issues with the control of the air conditioner between the tenants. The Landlord explained that that all of the tenants in the residential complex were provided with their own password to control the online thermostat and that they could control the temperature if needed.
43. Based on the evidence before me, I do not find the Landlord breached their obligations under s. 20 of the Act. The Tenant failed to show the temperature levels in the basement and that they were above or below a permitted standard of any municipal by-law or lawful requirement. While the Tenant *may* have felt that there was inadequate cooling in the basement, the Tenant failed to meet the burden of proof to show that there was inadequate cooling during summer months in accordance with the Act, as there were no temperature readings or logs were submitted. Also, the video of the paper place over a vent, which was not moving at the time, was not sufficient to prove that the fan was not working as there was contrary evidence to show that it was. It may one have not been running/moving at the time due to the set temperature being reached in the unit, which was 22-23 degrees.
44. Therefore, as the Tenants failed to establish this claim on the balance of probabilities, the claim for inadequate cooling or ventilation is dismissed.

Snow Removal for Specific Parking Spot

45. It was undisputed that the parties signed the tenancy agreement on or about March 30, 2025, which included additional agreed terms with respect to the responsibility of snow removal at the rental complex, and that each tenant living in the rental complex was responsible for removing the snow for their designated parking spot.
46. RN testified that he could not park in his designed spot because of the lack of snow removal and therefore had to park somewhere else. The Tenant did not provide any dates about when he notified the Landlord about the issue or dates of snowfall at all.
47. The Landlord disputed that there was a maintenance issue with respect to snow removal as there was a signed tenancy agreement that spoke to the issue, and the Tenant did not complain about the snow. The Landlord also disputed that the Tenant notified her about any issue, and in fact, it was the Landlord that reached out to the Tenant because the main floor tenant had complained to her about the Tenant parking in the main floor unit's designated space because the Tenant failed to remove the snow from his own designated spot. The photo of the Tenant's parked car in the main floor tenant's designated parking space was submitted as evidence.
48. Based on the evidence before me, I find that the Tenants did not provide notice to the Landlord regarding snow removal and they had no dates of snow on the property that interfered with their reasonable enjoyment of the property. The Board must consider whether the Tenants provided notice to the Landlords and whether sufficient details were provided to the Landlord in the s. 82 claim, to be able to defend the claim. In this case, I find that the Tenant had done neither, there is insufficient evidence before me to determine when or how often there may have been snow in the parking space that would prohibit the Tenants from parking. As a result, I do not find the Landlord breached their obligations under s. 20 of the Act.
49. The Tenant failed to prove that he notified the Landlord of any issue with respect to snow removal. While the Tenant *may* have felt that their issues with the snow removal in the driveway and he was not responsible to remove the snow, the Tenant failed to meet the burden of proof to show that he notified the Landlord, in accordance with the Act.
50. Therefore, the snow removal claim is dismissed.

It is ordered that:

L2 Application

1. The Tenants shall pay to the Landlord the amount of \$892.00, for utility costs.

L1 Application (voidable order)

2. The tenancy between the Landlord and the Tenants is terminated unless the Tenants void this order.

3. The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:

- \$10,086.00 if the payment is made on or before April 30, 2026. See Schedule 1 for the calculation of the amount owing.

OR

- \$11,186.00 if the payment is made on or before May 1, 2026. See Schedule 1 for the calculation of the amount owing.
4. 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 May 1, 2026 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenants may only make this motion once during the tenancy.
5. **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 May 1, 2026.**
6. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$7,665.63. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. The rent deposit and interest the Landlord owes on the rent deposit are deducted from the amount owing by the Tenants. See Schedule 1 for the calculation of the amount owing.
7. The Tenants shall also pay the Landlord compensation of \$36.16 per day for the use of the unit starting March 26, 2026 until the date the Tenants move out of the unit.
8. If the Tenants do not pay the Landlord the full amount owing in paragraphs 1 or 3 on or before May 1, 2026, the Tenants will start to owe interest. This will be simple interest calculated from May 2, 2026 at 4.00% annually on the balance outstanding.
9. If the unit is not vacated on or before May 1, 2026, then starting May 2, 2026, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
10. 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 May 2, 2026.

April 20, 2026
Date Issued

Colette Myers
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 November 2, 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	\$9,900.00
Application Filing Fee	\$186.00
Total the Tenant must pay to continue the tenancy	\$10,086.00

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before May 1, 2026

Rent Owing To May 31, 2026	\$11,000.00
Application Filing Fee	\$186.00
Total the Tenant must pay to continue the tenancy	\$11,186.00

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

Rent Owing To Hearing Date	\$8,604.00
Application Filing Fee	\$186.00
Less the amount of the last month's rent deposit	- \$1,100.00
Less the amount of the interest on the last month's rent deposit	- \$24.37
Total amount owing to the Landlord	\$7,665.63
Plus daily compensation owing for each day of occupation starting March 26, 2026	\$36.16 (per day)
**Ongoing daily compensation continues to accumulate until the total amount owing (excluding costs) is \$50,000.00.	