



Order under Section 69 Residential Tenancies Act, 2006

Citation: Romeo v Hoggarth, 2026 ONLTB 33368

Date: 2026-04-27

File Number: LTB-L-003612-26

In the matter of: B, 42 Nottingham Street
Guelph ON N1H3M7

Between: John Romeo Landlord

And

Cameron Hoggarth Tenant

John Romeo (the 'Landlord') applied for an order to terminate the tenancy and evict Cameron Hoggarth (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes (L1) also that 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).

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on April 22, 2026.

The Landlord, the Landlord's Legal Representative, Barrett Beaudoin, and the Tenant attended the hearing. The Tenant spoke to Tenant Duty Counsel prior to the start of this proceeding.

Determinations:

Preliminary Issue: The Tenant cannot raise issues under Section 82 of the Act and did not provide timely disclosure.

1. At the hearing the Tenant wished to raise issues pursuant to section 82 of the *Residential Tenancies Act, 2006* (the 'Act'). To this end, the Tenant had not provided materials to the Landlord or the Landlord's Legal Representative.
2. The Tenant had only uploaded materials onto the Tribunals Ontario Portal (TOP).

3. Uploading materials to TOP does not mean documents have been provided to another party unless there is an agreement in place and, here, there was no such agreement.
4. The Landlord's Legal Representative objected to the Tenant being permitted to raise any issues under s. 82. The Landlord's Legal Representative advised he did not get any materials from the Tenant and submitted it was only during the hearing he was aware that the Tenant had sent materials to the Board that were subsequently posted to TOP.
5. Section 82 provides a tenant may raise issues which may result in set-off against a Landlord's claims for arrears at an L1 hearing so long as the tenant provides written notice of these issues to the Landlord in advance of the hearing in accordance with the Board's rules or provides a satisfactory explanation why they could not do so.
6. Rule 19.4 of the LTB's Rules provides a tenant's written notice of their section 82 issues must be provided 7 days in advance of the hearing. Where this is not done, the LTB's Rule 19.5 provides a tenant shall not be permitted to raise their issues unless the LTB is satisfied the tenant could not comply with the requirements.
7. Similarly, Rule 19.1 of the LTB's Rules provides that all materials on which a party intends to rely at a hearing must be provided to the other party and the LTB 7 days in advance of the hearing. Rule 19.7 provides, in part, that a party who fails to comply with Rule 19 may not rely on evidence that was not properly disclosed unless ordered otherwise.
8. To comply with the section 82 and disclosure requirements the Tenant had to provide his list of section 82 issues and all materials on which he intended to rely to the Landlord on or before April 15, 2026. This was not done.
9. Absent a satisfactory explanation as to why the Tenant could not have done so, the Tenant is not able to raise his issues under s. 82. Additionally, unless ordered otherwise, the Tenant may not rely on his materials in this proceeding.
10. The Board's records show the Notice of Hearing – which advises parties of their disclosure obligations - and a copy of a s. 82 form was mailed to the Tenant on March 15, 2026, approximately 1 month prior to the hearing, and the Tenant acknowledged receiving and reading said Notice of Hearing.
11. In the above circumstances I am not satisfied the Tenant could not have complied with the Rules. The Tenant had a period of at least 4 months to complete the s. 82 form and provide her materials to the Landlord and LTB. The s. 82 claims and disclosure were ultimately completed and only uploaded to TOP and not served upon the Landlord prior to the hearing.
12. As a result, the Tenant was not permitted to raise any issues under s. 82 of the Act and may not rely on materials they provided to the LTB on April 4, 2026, April 10, 2026, April 12, 2026, April 15, 2026, April 17, 2026, and April 22, 2026. The Tenant remains free to seek legal advice and/or pursue any timely issues that may form the subject of a tenants' application under the Act. The Tenant in fact testified that he had a pending T6 application to be heard by the Board.

L1 Determination

13. 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.
14. As of the hearing date, the Tenant was still in possession of the rental unit.
15. The lawful rent is \$1,281.25. It is due on the 1st day of each month.
16. Based on the Monthly rent, the daily rent/compensation is \$42.12. This amount is calculated as follows: $\$1,281.25 \times 12$, divided by 365 days.
17. The Tenant has not made any payments since the application was filed.
18. The rent arrears owing to April 30, 2026, are \$6,312.50.
19. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.
20. The Landlord collected a rent deposit of \$1,250.00 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.
21. Interest on the rent deposit, in the amount of \$63.33 is owing to the Tenant for the period from February 1, 2024 to April 22, 2026.

Mandatory Denial of Eviction and Relief from Eviction

22. The Tenant submitted the Landlord was in serious breach of his obligations such that eviction must be denied under s. 83(3)(a) of the *Residential Tenancies Act, 2006* (the 'Act').
23. Subsection 83(3)(a) of the Act provides that the Board shall refuse to grant the application where satisfied that the landlord is in serious breach of the landlord's responsibilities under this Act or of any material covenant in the tenancy agreement.
24. Where the Board is satisfied that the landlord is in serious breach of the landlord's responsibilities under the Act or any material covenant in the tenancy agreement, it is mandatory to refuse the landlord's application for eviction. In addition to being serious, the Landlord's breach, whether of their responsibilities under the Act or of a material covenant, must also be occurring at the time of the hearing.
25. The Act does not define "serious breach".

26. The leading case of the Divisional Court which outlines the test for a “serious breach” is *Puterbough v. Canada Public Works and Government Services* [2005] O.J. No 5727. In that case, the court interpreted a “serious breach” in the context of a landlord’s statutory duty to repair and maintain the rental unit. At paragraph 22, the Court stated that a “serious breach”, in the context of the Landlord’s maintenance responsibilities:

Means more than the rental premises being in a 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.

27. The purpose of subsection 83(3)(a) of the Act is to ensure landlords do not rely on an eviction of tenants as a means of circumventing their statutory obligations under the Act.
28. That said, when addressing a tenant’s arguments pertaining to the landlord’s alleged breaches in that case, the Court went on to state: “To accept the Tenant’s argument that all breaches of the Landlord’s responsibilities that raise health and safety concerns trigger subsection 83(3)(a) of the Act would render meaningless the word ‘serious in that subsection.”
29. In *Puterbough*, the Court held that the wording of subsection 83(3)(a) of the Act is in the present tense meaning that the serious breach must be ongoing at the time of the hearing before the Board, not in the past or potentially in the future, and the onus is on the Tenant to prove this.
30. The Tenant’s argument falls under the category of maintenance and or loss due to the lack of maintenance. The Tenant’s argument relates to the allegation that the Landlord is complacent with the current state of the rental unit and in breach of the Act.
31. Based on the evidence before me I find that the Landlord, even if in violation of the Act – on which I make no determination in this application- was not in serious breach of his obligations under the Act or any material covenants of the tenancy agreement.
32. The Tenant raised:
- a. mould related to persistent flooding from the foundation.
33. The Tenant alleged that the Landlord was in a serious breach in relation to the above-mentioned issue. However, the Tenant did not provide supporting evidence in relation to these claims pursuant to Rule 19.
34. The Landlord’s Legal Representative submitted that the Landlord had not been notified of these allegations, as the Tenant testified to in this proceeding. Moreover, if he was notified, he would have responded to the Tenant’s concerns and had not responded to concerns in the past. The Tenant further testified that the Landlord’s response and repairs were rudimentary in nature and did not alleviate the issues in totality.

35. I am not satisfied on a balance of probabilities that even if the issues were ongoing at the time of the hearing individually reach the level required to mandate refusal of eviction. I am not prepared to find that the Tenant has established a serious breach in relation to the mould or flooding claims given that he has not provided any documentary evidence to support this claim, pursuant to Rule 19 and on a balance of probabilities, I am persuaded and prefer the Landlord's evidence to the Tenant's. I am further not satisfied that the issues reach the level required to mandate denial of eviction.
36. I find the evidence before me insufficient to find that the Landlord, even if in violation of the Act – an issue on which I make no determination in this application - was in serious breach of the Landlord's obligations under the Act or of any material covenants of the tenancy agreement at the time of the hearing. This finding is limited to the purposes of s. 83 of the Act, however, and is not meant to preclude the Tenant from pursuing a maintenance application against the Landlord should he so choose to do so if the applicable statutory deadline for doing so has not expired. Moreover, from the Tenant's submissions he has availed himself of his rights as a Tenant under the Act by filing a T6 application with the Board.
37. As a result, the Landlord's application is not refused under s. 83(3)(a).

Additional Considerations- Relief from Eviction

38. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would not be unfair to postpone the eviction until May 31, 2026, pursuant to subsection 83(1)(b) of the Act. This extension of time accounts for both parties' evidence in relation to their financial circumstances.
39. The Landlord's Legal Representative submitted that the parties had attempted to work out a payment plan to no avail. The Tenant's evidence in relation to entering a payment plan illustrated that a payment plan would not be viable given the Tenant's current life circumstances, employment status, income sources and monthly expenses. The Tenant would have difficulty covering the monthly rent, his other expenses, let alone the arrears, in my opinion from the Tenant's oral testimony provided upon Board questioning.
40. The Tenant testified to the impact an eviction would have on him, given his tenure (4 years) and his connection to the community and thus the Tenant requested and extended eviction of at least 45-60 days, as he testified to the financial challenges looking for a new home would bring.
41. In response to questioning from the Board, the Landlord's Legal Representative explained that any further delay in granting the application would be financial prejudicial to the Landlord, and that the Landlord rely on rent to pay expenses related to the rental unit.
42. Considering all of the evidence and, notwithstanding the Landlord may face some financial prejudice, I find that, pursuant to subsection 83(1)(b) of the Act that it would not be unfair

to the Landlord to delay the eviction until May 31, 2026, due to the significant impact an early eviction would have on the Tenant.

43. Given the Tenant's tenure of tenancy (2022) and his financial circumstances, I am satisfied that he may experience challenges securing housing that fits his needs such that more time is required. By contrast, the Landlord, while I acknowledge may face further financial prejudice, the Landlord is holding the last month's rent deposit and after considering the totality of the circumstances I conclude that delaying eviction to May 31, 2026, is fair and appropriate.

44. The extension of time will provide the Tenant time to secure his future income sources/funds to pay the arrears or to find a new place to live.

L2 Determination:

45. At the hearing, the Landlord's Legal Representative, sought to withdraw the L2 portion of the application and I consented to the request. The Tenant did not oppose the same.

46. This order contains all the reasons within it and no further reasons will be issued.

It is ordered that:

L1 Application – Non-Payment of Rent

1. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.
2. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$6,513.50 if the payment is made on or before April 30, 2026. See Schedule 1 for the calculation of the amount owing.

OR

 - \$7,794.75 if the payment is made on or before May 31, 2026. See Schedule 1 for the calculation of the amount owing.
3. 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.
4. **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.**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$4,845.56. 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 Tenant. See Schedule 1 for the calculation of the amount owing.

6. The Tenant shall also pay the Landlord compensation of \$42.12 per day for the use of the unit starting April 23, 2026, until the date the Tenant moves out of the unit.
7. 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.
8. 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.
9. 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.

L2 Application

10. The L2 application is dismissed as withdrawn.

April 27, 2026
Date Issued

Panagiotis P. Roupas
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	\$6,312.50
Application Filing Fee	\$201.00
Total the Tenant must pay to continue the tenancy	\$6,513.50

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	\$7,593.75
Application Filing Fee	\$201.00
Total the Tenant must pay to continue the tenancy	\$7,794.75

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

Rent Owing To Hearing Date	\$5,957.89
Application Filing Fee	\$201.00
Less the amount of the last month's rent deposit	- \$1,250.00
Less the amount of the interest on the last month's rent deposit	- \$63.33
Total amount owing to the Landlord	\$4,845.56
Plus daily compensation owing for each day of occupation starting April 23, 2026	\$42.12 (per day)
**Ongoing daily compensation continues to accumulate until the total amount owing (excluding costs) is \$50,000.00.	