



Order under Section 69 Residential Tenancies Act, 2006

Citation: Zhang v Degrace, 2026 ONLTB 33474

Date: 2026-04-29

File Number: LTB-L-108016-25

In the matter of: 806, 45 CHARLES ST E
TORONTO ON M4Y0B8

Between: Daxi Zhang
Zhao Xia Chen
Landlords

And

Lindsay Skye Degrace
Tenant

Daxi Zhang and Zhao Xia Chen (the 'Landlords') applied for an order to terminate the tenancy and evict Lindsay Skye Degrace (the 'Tenant') because:

- the Tenant did not pay the rent that the Tenant owes (L1 Application); and
- the Tenant has been persistently late in paying the Tenant's rent; (L2 Application).

This application was heard by videoconference on March 3, 2026.

The Landlords 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 LTB or the Landlords.
2. The Landlords objected to the Tenant being permitted to raise any issues under s. 82. The Landlords advised they did not get any materials from the Tenant and submitted it was only during the hearing they were made aware that the Tenant wished to bring up s. 82 issues.

3. 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 provide a satisfactory explanation why they could not do so.
4. 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.
5. 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.
6. To comply with the section 82 and disclosure requirements the Tenant had to provide her list of section 82 issues and all materials on which they intended to rely to the Landlords on or before February 24, 2026. This was not done.
7. Absent a satisfactory explanation as to why the Tenant could not have done so, the Tenant is not able to raise her issues under s. 82. Additionally, unless ordered otherwise, the Tenant may not rely on their materials.
8. 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 February 4, 2026. Approximately 1 month prior to the hearing. The Tenant acknowledged receiving the same and reading the same but testified that she may have missed the timeline instructions regarding evidence to be relied upon.
9. In the above circumstances I am not satisfied the Tenant could not have complied with the Rules. The Tenant had a period of about a month to complete the s. 82 form and provide her materials to the Landlord and LTB. The s. 82 claims were ultimately attempted to be brought up during the proceeding
10. As a result, the Tenant was not permitted to raise any issues under s. 82 of the Act. 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.

L1 Application – Non-Payment of Rent

11. The Landlords 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.
12. As of the hearing date, the Tenant was still in possession of the rental unit.

13. The lawful rent is \$2,090.00. It is due on the 1st day of each month.
14. Based on the Monthly rent, the daily rent/compensation is \$68.71. This amount is calculated as follows: \$2,090.00 x 12, divided by 365 days.
15. The Tenant has not made any payments since the application was filed.
16. The rent arrears owing to March 31, 2026 are \$8,320.00.
17. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
18. The Landlords collected a rent deposit of \$2,050.00 from the Tenant and this deposit is still being held by the Landlords. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.
19. Interest on the rent deposit, in the amount of \$58.56 is owing to the Tenant for the period from January 1, 2025 to March 3, 2026.
20. 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 June 30, 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.
21. The Landlords submitted that the parties have attempted to work out a payment plan to no avail, since the application was filed. 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 as of the hearing, income sources and monthly expenses. The Tenant would have difficulty covering the monthly rent, her other expenses, let alone the arrears.
22. The Tenant testified to the impact an eviction would have on her, given her recent personal and financial issues. The Tenant further explained she has significant connection to the community given her tenure of tenancy. Thus, the Tenant requested an extended eviction of at least 60 to 90 days if a payment plan was not ordered. The Tenant also testified to the financial challenges looking for a new home would bring and that an eviction could render her unhoused.
23. In response to questioning from the Board, the Landlords explained that any further delay in granting the application would be financial prejudicial to the Landlords, and that the Landlords rely on rent to pay expenses related to the rental unit and sought a standard order.
24. Considering all of the evidence and, notwithstanding the Landlords 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 Landlords to delay the eviction until June 30, 2026, due to the significant impact an early eviction would have on the Tenant given her recent personal and financial circumstances.

25. Given the Tenant's connection to the community and her current circumstances, I am satisfied that he may experience challenges securing housing that fits her needs such that more time is required. By contrast, the Landlords, while I acknowledge may face further financial prejudice, the Landlords are holding the last month's rent deposit and after considering the totality of the circumstances I conclude that delaying eviction to June 30, 2026, is fair and appropriate, however delaying the eviction any further would not be appropriate.
26. The extension of time will provide the Tenant time to secure her future income sources/funds to pay the arrears or to find a new place to live.

L2 Application – Persistent Late Payment of Rent

27. The Tenant was in possession of the rental unit on the date the application was filed.
28. This is a month-to-month tenancy. Rent is due on the first of the month.

Persistent Late Payment

29. For the reasons that follow, I find that the Tenant has persistently paid rent late.
30. On December 23, 2025, the Landlords served the Tenant an N8 notice of termination, pursuant to the Rules of Procedure of the Landlord and Tenant Board.
31. I find that the N8 notice is in compliance with the *Residential Tenancies Act, 2006* ('Act'); the notice was given at least 60 days before the termination date (February 28, 2026) and the termination was the last day of a rental period.
32. Based on the Landlords submissions, from March 2025 to December 2025, the Tenant had not paid rent when it was due 7 out of 10 times.

Relief from Eviction L2 application: Section 83 Considerations

33. 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 grant relief from eviction subject to the condition(s) set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act with respect to the L2 application.
34. Based on the Tenant's testimony, I find the Tenant will likely be able to pay rent in full and on time. I am of the view the Tenant should be afforded another opportunity to continue the tenancy provided she meets the conditions set out below, and that doing so would not be unfair. I make this finding for several reasons.
35. First, the Divisional Court has affirmed, on numerous occasions, that eviction is a remedy of last resort. To take just two examples:

Eviction should be ordered as a last resort after carefully considering Section 84 [now 83] of the Act (*Britannia Glen Co-operative Homes v. Singh*, cited in *Toronto Community Housing Corp. v. Thompson*, [2003] O.R.H.T.D. No. 145).

To put somebody out of their home must, in my view, call for clear and compelling circumstances that it is no longer possible for the arrangement to continue (*Langford v. Phipps*, [1992] O.J. No. 4184 (Ont. Gen. Div.)).

36. In other words, eviction should only be ordered if it is not possible to bring a tenancy back into good standing. In this case of persistent late payment, bringing the tenancy back into good standing is a simple matter of the Tenant starting to pay on time, which the Tenant testified she can do via her new employment and financial assistance from social programs that she has applied to, therefore given this, it should be done rather than terminating the tenancy.
37. Second, compared to the other reasons a tenancy can be terminated, persistent late payment is a minor issue, in my opinion. 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.
38. Third, the prejudice to a landlord that results from a prompt payment order is minimal. The order ensures that the rent will immediately start to be paid on time. If any payment is late, the Landlord can obtain an eviction order under section 78 of the Act.
39. Finally, given the Tenant's testimony in regards to her capacity to pay the rent on time, it is not appropriate in my view to terminate the tenancy and evict the Tenant where the Tenant seems to have the financial wherewithal to pay the lawful rent when it is due.

It is ordered that:

L1 Application – Non-Payment of Rent

1. The tenancy between the Landlords 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 Landlords or to the LTB in trust:**
 - \$10,596.00 if the payment is made on or before April 30, 2026. See Schedule 1 for the calculation of the amount owing.
 - OR**
 - \$12,686.00 if the payment is made on or before May 31, 2026. See Schedule 1 for the calculation of the amount owing.
 - OR**
 - \$14,776.00 if the payment is made on or before June 30, 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 June 30, 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 June 30, 2026.**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlords \$4,513.57. 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 Landlords 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 Landlords compensation of \$68.71 per day for the use of the unit starting March 4, 2026 until the date the Tenant moves out of the unit.
7. If the Tenant does not pay the Landlords the full amount owing on or before June 30, 2026, the Tenant will start to owe interest. This will be simple interest calculated from July 1, 2026 at 4.00% annually on the balance outstanding.
8. If the unit is not vacated on or before June 30, 2026, then starting July 1, 2026, the Landlords 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 Landlords on or after July 1, 2026.

L2 Application – Persistent Late Payment of Rent

10. If the Tenant voids the L1 portion of the order in accordance with paragraph two above, the tenancy shall continue on the following terms.
11. The Tenant shall pay the Landlords the monthly rent as it comes due on or before the first day of each month, commencing July 1, 2026, and for the 12 months thereafter up to and including June 1, 2027.
12. If the Tenant fails to make any of the payments in paragraph 11 above, the Landlords may apply under section 78 of the Act, within 30 days of the breach and without notice to the Tenant, for an order terminating the tenancy and evicting the Tenant.

April 29, 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 of the Tenant expires on January 1, 2027 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	\$10,410.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlords since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlords owes the Tenant for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total the Tenant must pay to continue the tenancy	\$10,596.00

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	\$12,500.00
Application Filing Fee	\$186.00
Total the Tenant must pay to continue the tenancy	\$12,686.00

C. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before June 30, 2026

Rent Owing To June 30, 2026	\$14,590.00
Application Filing Fee	\$186.00
Total the Tenant must pay to continue the tenancy	\$14,776.00

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

Rent Owing To Hearing Date	\$6,436.13
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlords since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$2,050.00
Less the amount of the interest on the last month's rent deposit	- \$58.56
Less the amount the Landlords owes the Tenant for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00

Total amount owing to the Landlords	\$4,513.57
Plus daily compensation owing for each day of occupation starting March 4, 2026	\$68.71 (per day)