



Order under Section 69 Residential Tenancies Act, 2006

File Number: LTB-L-092836-25

In the matter of: 502 ALEAH CRES
KESWICK ON L4P1X5

Between: Sheeley Xi Landlord

And

Robert Nixon Tenant
Kelly fehily

The term "Landlord" refers to all persons or companies identified as a Landlord and "Tenant" refers to all persons identified as a Tenant, within the order.

Sheeley Xi (the 'Landlord') applied for an order to terminate the tenancy and evict Robert Nixon and Kelly fehily (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on April 15, 2026.

The Landlord and the Tenant attended the hearing. The Landlord was represented by Tracy Ryman.

Determinations:

1. For the reasons that follow, the tenancy between the Landlord and Tenant is terminated on the L2 application and the Tenant must move out on or before May 31, 2026. The Tenant must also pay to the Landlord \$35,426.91 which represents the rent arrears to the hearing date, utility arrears and 50% of the compensation related to the damage in the rental unit as well as the application filing fee on or before May 31, 2026 or interest will accrue at 4.00% per year.

Preliminary Issues

A. Second N5 Notice of Termination

2. At the hearing, I raised a preliminary issue with respect to the second N5 notice of termination filed with the L2 application -specifically that the notice with a termination date of November 17, 2025 contained the same allegations as the first N5 with the termination

date of October 30, 2025 and therefore did not comply with section 68(1) of the Act which states:

68 (1) A landlord may give a tenant notice of termination of the tenancy if,

(a) a notice of termination was given to the tenant under section 62, 64 or 67; and

(b) **more than seven days but less than six months after the notice** mentioned in clause (a) **was given to the tenant, an activity takes place, conduct occurs or a situation arises that constitutes grounds for a notice of termination** under section 60, 61, 62, 64 or 67, other than an activity, conduct or a situation that is described in subsection 61 (1) and that involves an illegal act, trade, business or occupation described in clause 61 (2) (a).

[Emphasis added.]

3. The Landlord confirmed this to be the second N5 notice of termination.
4. As the second N5 fails to comply with section 68 of the *Residential Tenancies Act, 2006*, it is dismissed.
5. Since the L2 application was filed on November 4, 2025, and within the 30-day period from the first N5, I permitted the Landlord to proceed on this notice since the Tenant was aware and ready to respond to it.

B. Arrears on the N4 notice of termination

6. At some point during the hearing, it came to my attention that the arrears on the N4 notice of termination were not accurate – there was allegedly more arrears owed than what was stipulated on the notice of termination - and therefore this notice did not comply with section 59(2) of the Act which states:

(2) The **notice of termination shall set out the amount of rent due and shall specify that the tenant may avoid the termination of the tenancy by paying**, on or before the termination date specified in the notice, the rent due as set out in the notice and any additional rent that has become due under the tenancy agreement as at the date of payment by the tenant.

7. Since I found the N4 to be defective, the Landlord's request for eviction could not be granted.
8. The Landlord elected to proceed with an order for arrears only.

C. November's Rent not on the L1 Application

9. In reviewing the L1 application filed on November 4, 2025, it appears that the rent for November 2025 was not included in the amount owed.

10. The Landlord confirmed the rent for November 2025 had not been paid by the Tenant. The Tenant did not dispute this assertion.
11. Therefore, the application was amended to include the rent for November 2025.

D. Service of the Amended Application to the Tenant

12. On December 29, 2025, the Landlord filed an amended application with the Board to update the amounts owed on their claims. As there was no certificate of service submitted to the Board to confirm service on the Tenant, this issue was raised.
13. As there were many documents uploaded to the portal, I held the matter down to allow the Landlord to point me to the certificate of service confirming the amended application was served on the Tenant, but the Landlord was unable to produce this document.
14. The Landlord testified that she recalled serving the Tenant the amended application but could not recall when she did. The Landlord could not recall how it was served either.
15. The Tenant denies receiving an amended application in December or thereafter and confirms they did not have access to the portal.
16. As the Landlord could not establish service of the amended application on the Tenant, and therefore did not comply with the Board's Rules of Procedure regarding amending applications, the request to amend the applications is denied.

E. Breach of the Interim order

17. At the hearing, the Landlord raised a preliminary issue regarding the interim order issued on March 18, 2026- specifically he requirement that the Tenant pay a portion of the ongoing rent to the Landlord effective April 1, 2026 until the Board orders otherwise.
18. The Landlord submits the Tenant did not pay the rent by the deadline stipulated on the interim order.
19. The Tenant confirms this was not done but submits that the parties had an agreement on March 15, 2026 that the Tenant would pay this amount on April 20, 2026. The Tenant explains that they lost their job in November 2025 which put them behind.
20. It is unclear why this issue was not raised at the hearing on March 11, 2026 or the request put forward then that the payment for April be deferred to April 20, 2026.
21. I am satisfied that the Tenant is in breach of the interim order issued on March 18, 2026. After hearing the submissions by the parties, I am not satisfied that there was an agreement to delay the payment to April 20, 2026.
22. As stipulated in the interim order, the Board may refuse to consider the Tenants' evidence and submissions. While the Tenant has not filed any evidence with the Board, their submissions regarding water and heat issues in the unit are limited to be considered in the context of section 83 on the L2 application.

L1 APPLICATION

23. 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.
24. As of the hearing date, the Tenant was still in possession of the rental unit.
25. The lawful rent is \$5,250.00. It is due on the 1st day of each month.
26. Based on the Monthly rent, the daily rent/compensation is \$172.60. This amount is calculated as follows: $\$5,250.00 \times 12$, divided by 365 days.
27. The Tenant has not made any payments since the application was filed.
28. The rent arrears owing to April 30, 2026 are \$36,600.00.

F. What is the Lawful Monthly Rent?

29. The parties dispute the lawful monthly rent and seek a determination in this regard.
30. The Landlord's stance can be summarized as follows: when the tenancy began in August 2025, the Tenant rented the entire home for \$5,500.00. The rent for September 1, 2025 onwards decreased to \$5,250.00 on consent of the parties. Since then, the Landlord maintains the rent remains \$5,250.00.
31. The Tenant's position is that the rent is \$2,550.00. They explain that they rented the upper unit for \$2,550.00 and agreed to help the Landlord rent out the lower unit at \$2,750.00.
32. In reviewing the lease agreement signed by the parties on July 27, 2025, the rental unit is identified as the upper and lower unit. Further, the lease states the lower unit keys were given to these Tenants. The Tenants submit they were doing work in the lower unit which is why they had the keys.

33. While the existence of two units at the premises is largely uncontested, I do not find the Tenant had keys to the lower unit for a temporary period. I say this because the lease agreement related to the rental unit and the key deposit considers that the Tenants have been provided with 3 keys to the upper unit and identifies which type and the same is listed for the lower unit. I find if it was temporary in nature, there would be no need to do so for the lower unit.
34. Further, the Tenant's use of the basement bathroom in September 2025 is consistent with the fact that the Tenant was renting both spaces and inconsistent with the Tenant's assertion that they were unable to move into the unit until October 1, 2025.
35. So I find the lawful monthly rent to be \$5,250.00 on September 1, 2025 onwards, for the rental unit which consists of both the upper and lower units; I also find the tenancy began on August 1, 2025 and the rent at that point was \$5,500.00.
36. I also find the arrears owed to April 30, 2026 total \$36,600.00 as the Landlord claims. The Tenant submits if found they owed money, they would require time to pay of the arrears in full but could not commit to a specific amount they would pay each month.
37. The Tenant seeks a repayment plan over time for the arrears. Although the Board has the discretion to make such an order I am not prepared to do so in these circumstances. I say

this because there has been nothing concrete put forward by the Tenant for the Board to consider.

38. So the request for a repayment plan is denied.

L2 APPLICATION

39. The Landlord's L2 application is based on a first N5 notice of termination served pursuant to subsections 64(1) and 62(1) of the Act with a termination date of October 30, 2025.

40. As this was a first N5 notice of termination, the Tenant had seven days to remedy the behaviour complained of by paying the Landlord \$845.81 and ceasing from the interferences alleged in the notice of termination. This remedy period was between October 8, 2025 and October 15, 2025.

41. The Landlord's evidence was the Tenant failed to pay the damages to the Landlord; failed to transfer the water utility in their name and did not rectify the clutter stored on the back deck. The Landlord submits the Tenant did not void the N5 notice of termination.

A. Clogged Toilet

42. The Landlord testified that there were three separate clogs in the basement toilet that took place within the first two months of the Tenant moving into the rental unit. Upon investigation, it was discovered that the source of these clogs was the improper disposal of wet wipes and paper towels. The Landlord testified that at the time, the Tenant admitted responsibility for the clog due to their guests and indicated they would pay for it but failed to do so. The Landlord presented two invoices in support of their assertion and seeks 50% compensation for each invoice as per their agreement with the Tenant.

43. The Tenant disputes responsibility for the clogs in September 2025 but does not dispute the dates or invoices presented. They testified that diapers and other materials also came out when the line was snaked. They submit that they did not have any children wearing diapers and should not be held liable for the previous residents' negligent behaviour. No photos/plumber reports were presented by the Tenant in support of their assertion.

44. Based on the evidence before the Board, I find the Tenant and/or their occupant/guest wilfully or negligently caused undue damage to the rental unit by improperly disposing items down the toilet resulting in the clogs that took place on September 20 and 27, 2025. While the Landlord seeks \$845.81 for the three clogs, it appears that only two invoices were presented and therefore I am only inclined to award 50% of those invoices or \$563.87.

B. Breach of Lease Agreement

45. The Landlord submits that according to the lease agreement, the Tenant was responsible for putting the utilities' accounts in their name, but they failed to do so. The Landlord submits that the water utility remained

46. The relevant section of the lease agreement stipulates the following:

It appears that the direction to put the electricity and gas utility accounts in the Tenant's name is not clearly stipulated on the lease agreement. Nor is there any additional agreement submitted to the Board to support the Landlord's position.

47. Therefore, I do not find the Tenant was in breach of subsection 64(1) of the Act when they failed to transfer the electricity and heat utility bills in their name.

C. Back Deck Clutter

48. Finally, with respect to the state of the back deck at the residential complex – while its' state is not contested – the Tenant submits that the items on the back deck belong to the former resident who resided before they moved in, and did not pick up the remainder of their belongings; further, the Tenant submits that this was not the subject of the by-law officer's complaint.
49. In reviewing the correspondence filed by the Landlord, it appears that the email from the by-law officer dated October 6, 2025 supports the Landlord's assertion that the back deck of the property and the large amount of items was indeed a concern that could jeopardize the Landlord's position and result in the reopening of the by-law complaint that had been filed. The Landlord submits that since October 2025, there have been more items accumulating on that deck and this issue has not been rectified.
50. Based on the evidence before the Board, I am satisfied that the Tenant and/or their occupant/guest substantially interfered with the Landlord's lawful rights, interests and privileges by failing to remove the items off the back deck, exposing the Landlord to

penalties from the City. While the Tenant initially testified that the items were not theirs, on cross-examination, they confirmed the back deck items belonged to them.

Mandatory Denial of Eviction

51. At the hearing, the Tenant asserts they have not had heat or water in their unit for a while and while the Tenant still lives there, they had to move their child to their parents' home. The Tenant submits the Landlord was advised of this issue when they moved in, in August 2025, but the Landlord did nothing.
52. It is unclear how the Tenant would have no water in their unit from the start of their tenancy when they were plagued with three clogs within the first two months of living there.
53. From the evidence provided by the parties, it appears this issue was brought to the Landlord's attention on April 2, 2026 and the parties agreed that due to the long weekend, the Tenant would have their parents' neighbour Doug attend the property and investigate the issue. The Landlord submits that since then, she has attempted to obtain an update from the Tenant but has not heard back and the Tenant has not complained of the issue since Doug's visit. The Tenant submits the Landlord was advised that the pipes had corroded and said she would deal with the issue when she had money.
54. The leading case that states the test for "serious" breach is *Puterborough v. Canada* (Public Works and Government Services) [2005] O.J. No 5727 [hereinafter Puterborough]. In the Puterborough case, paragraph 22 of the decision states that "serious breach", in the context of the Landlord's maintenance responsibilities: "means more than the rental premises being in 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."
55. I find that interferences or a disrepair with the supply of vital services would constitute grounds for a denial of eviction in accordance with subsection 83(3) of the Act but, the problem with the Tenant's assertion is that there is insufficient evidence provided in support of this claim. If, in fact, there is a heating and water supply issue, the Tenant could and should have filed documentary evidence in support of their assertion or brought a witness to speak to this issue but failed to do so.
56. So, I cannot find that the Landlord is in serious breach of their obligations that would justify a denial in eviction. I also have serious concerns of the credibility of the Tenant's testimony given the contradictory evidence presented.

Relief from Eviction

57. Termination of a tenancy is a remedy of last resort; where the landlord's interests can be protected and a tenancy preserved then the Board will customarily grant conditional relief from eviction if in all the circumstances it would not be unfair to do so.
58. However, with respect to the application before me, I find that the Landlord's interests cannot be protected by imposing a conditional order. I say this because the Tenant has failed to acknowledge the problem with their behaviour – in fact, the Tenant has outright

denied taking accountability for the clogs and the back deck clutter. I find that by imposing a conditional order will only result in further future breaches of the order.

59. As such, I must think about when to terminate the tenancy.
60. The Tenant seeks a delay of 60 days as they have just returned to work and need time to gather the funding and resources to move. The Tenant submits they have a 10-year old child with special needs who would need time to transition.
61. The Landlord opposes any delay as she is a single parent struggling with the financial obligations of her own home and that of the rental unit.
62. Given that this is a short-term tenancy, and the financial distress on the Landlord as well as considering the Tenant and their family circumstances and the fact that they have been recently employed, I find a brief delay in eviction to May 31, 2026 to be appropriate.
63. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
64. 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.
65. Interest on the rent deposit, in the amount of \$16.26 is owing to the Tenant for the period from August 2, 2025 to April 15, 2026.
66. 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.

Compensation for Utility Arrears

67. The Landlord's L2 application also includes a claim for utility arrears. As of the hearing date, the Landlord submits these arrears total \$1,864.30 for the period August 2025 to January 2026.
68. Under the lease agreement, the Tenant is responsible for the electricity, heat and water utilities.
69. The Landlord testified that the Tenant initially refused to pay the water bill because they believed it was too high and that there was a leak in the plumbing, so the Landlord contacted the service provider to assess whether there was any irregularity with the water usage and was advised there was none. A copy of this correspondence was submitted into evidence. The Landlord submits they also contracted a plumber to investigate any possible leak at the unit and was advised there was none.
70. The Landlord testified that the water utility arrears were transferred to the property's tax bill after a period of non-payment in early 2026 and totalled \$1,225.12. The electricity bill that remained outstanding totalled \$334.00 and the heat bills paid by the Landlord to the supplier total \$305.18. The Landlord seeks reimbursement for this amount. Copies of the bills were also submitted into evidence.

71. The Tenant did not provide any real defence to these claims and submitted that while the tenancy began in August they were unable to move in until October 2025 and should not be held responsible for anything prior to their move-in. The problem with this assertion is that the evidence before the Board does not support this assertion.
72. Therefore, based on submissions before me including the bills submitted into evidence, I find the water utility arrears total \$1,215.12, the heat utility bills total \$305.18, and the electricity bills total \$334.00 for which the Tenant is responsible to reimburse the Landlord.
73. The Tenant submits it would take them years to pay this off to the Landlord but failed to provide concrete dates and amounts they could commit to paying. Given that there are substantial rent arrears as well, and with the lack of a concrete plan, I am not inclined to impose on the Landlord a repayment plan for this amount.
74. This order contains all of the reasons for the decision within it. No further reasons shall be issued.

It is ordered that:

1. The tenancy between the Landlord and the Tenant. The Tenant must move out on or before May 31, 2026.
2. 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.
3. 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.
4. The Tenant shall pay to the Landlord \$32,822.74. This amount includes rent arrears owing up to the date of the hearing. The rent deposit and interest the Landlord owes on the rent deposit are deducted from the amount owing by the Tenant.
5. The Tenants shall also pay to the Landlord \$172.60 per day for compensation for the use of the unit starting April 16, 2026 to the date they move out of the unit
6. The Tenant shall also pay to the Landlord \$1,854.30 which represents the utility arrears owed for the period August 2025 to January 2026.
7. The Tenant shall also pay to the Landlord \$563.87 which represents 50% of the compensation for the damage to the plumbing in the rental unit due to the two clogs that took place in Septemebr 2025.
8. The Tenants shall also pay to the Landlord \$186.00 for the cost of filing the application.
9. The total amount owed by the Tenant to the Landlord is \$35,426.91.
10. 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.

May 6, 2026
Date Issued

Sonia Anwar-Ali
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.