



Order under Section 69 Residential Tenancies Act, 2006

File Number: LTB-L-098467-25

In the matter of: 2, 271 REDAN ST
EUGENIA ON N0C1E0

Between: Brent Edan McMullen Landlord

And

Janine McGowan Tenant

Brent Edan McMullen (the 'Landlord') applied for an order to terminate the tenancy and evict Janine McGowan (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on March 13, 2026.

The Landlord, the Landlord's Legal Representative, P. Uthyakumar, and the Tenant attended the hearing.

Determinations:

1. 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.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. The Tenant vacated the rental unit on December 31, 2025. Rent arrears are calculated up to the date the Tenant vacated the unit
4. The lawful rent is \$1,500.00. It was due on the 1st day of each month.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to December 31, 2025, are \$18,500.00.
7. The Tenant does not agree with the amount being claimed due to the s.82 issues raised which include what her lawful rent should be. Those are discussed in detail below.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

Section 82 issues

9. The Tenant raised the following issues under s.82 of the *Residential Tenancies Act, 2006* (the 'Act').
- a) Lawful rent reduced
 - b) Utilities paid by the Tenant
 - c) Rodent issue
 - d) Plumbing Issues
 - e) Heating Issues
 - f) Smoke and carbon monoxide detectors
 - g) General aesthetics of the rental unit
10. Lawful rent reduced: The Tenant submitted that due to ongoing maintenance issues, she requested a rent reduction from the Landlord on February 2, 2024. On February 27, 2024, the Landlord responded that he was uncomfortable with a rent reduction and indicated he may reconsider the request after March 2024.
11. In April 2024, the Tenant sent a further email outlining outstanding issues and unilaterally reduced her rent payments to \$1,000.00 per month. The Landlord did not respond to this email. The Tenant continued paying \$1,000.00 per month until April 2025 and ceased paying rent entirely as of May 2025 until vacating the unit.
12. The Landlord submitted that the Tenant unilaterally reduced the rent. I find the Tenant's conduct is more accurately characterized as the Tenant's attempt to renegotiate a rent reduction however, there is no evidence that the Landlord ever agreed to such a reduction.
13. I do not support the Tenant's belief that because she paid reduced rent for a period of 12 months, it becomes the lawful rent. Under the Act, a party cannot unilaterally determine a new rent amount. The payment of a reduced rent for a period of time does not, on its own, establish a new lawful rent. I find there was no agreement to reduce the rent.
14. Accordingly, the lawful rent remains \$1,500.00 per month, and the Tenant's claim for a lawful rent reduction is dismissed.
15. Utilities paid by the Tenant: The Tenant submitted evidence that she paid \$684.22 in utilities that were the Landlord's responsibility under the tenancy agreement. The Landlord did not oppose this claim. I will therefore order the Landlord to pay the Tenant \$684.22.
16. The balance of the Tenant's section 82 issues is with respect to maintenance issues. Specifically, the Tenant alleges the Landlord breached his obligations under subsection 20(1) of the Act.
17. Subsection 20(1) of the Act does not contain an element of fault. The reasons for a landlord's breach are not relevant. Regardless of the reasons why a landlord is unable to provide a rental unit in a good state of repair and fit for habitation, if they are unable to do so, they are in breach of their obligation under the Act.
18. In *Onyskiw v. CJM Property Management Ltd.* 2016 ONCA 477 (CanLII), the Court of Appeal rejected the idea that any service interruption amounts to an automatic breach of

the Act. Instead, the Court urged the Board to make a “contextual analysis” in each case, looking at all the facts before finding that a landlord breached the Act. As part of this analysis, the Court directed the Board to look at the essential nature of a tenant’s complaints and what steps, if any, were taken by the landlord.

19. Subsection 30(2) of the Act states: “In determining the remedy under this section, the Board shall consider whether the tenant or former tenant advised the landlord of the alleged breaches before applying to the Board.” This section of the Act was intended to reflect the case law in the area that basically states that if a landlord does not know about a particular disrepair problem, then the landlord cannot and should not be held financially liable for failing to address it. Additionally, in accordance with section 16 of the Act, when a landlord becomes liable to pay any amount as a result of a breach of subsection 20(1), the tenant has a duty to take reasonable steps to minimize the loss.
20. To be successful, the Tenant must sufficiently establish that the issues claimed were in a state of disrepair. She must then prove that the Landlord knew or ought to have known about the disrepair issues but failed to take reasonable and appropriate steps to address the disrepair issue.
21. The Divisional Court in *Toronto Community Housing Corp. v. Vlahovich*, [2010] O.J. No. 1463 (Vlahovich), confirms that a remedy cannot go back farther than the one-year period prior to the filing of the application. As the Act is silent on the limitation period for issues raised by a tenant under section 82, I find it reasonable to consider the disclosure date (January 26, 2026) as the closest equivalent to a tenant’s application filing date. Accordingly, any remedy awarded cannot go back farther than January 26, 2025.
22. Rodent issue: The Tenant testified that following the Landlord vacating the upper unit in April 2024, there was a significant rodent problem, including noises in the walls and rodent droppings. She testified that although traps were later installed in the upper unit, dead rodents were not removed for extended periods, creating unhygienic living conditions. The first complaint as per evidence submitted was in or around April 16, 2025 and last on May 1, 2025.
23. The Landlord testified that upon receiving the initial complaint, he attended the property within approximately one week and installed traps. He caught several mice and did not place poison laden traps in the basement unit due safety of the Tenant’s cats. The Landlord stated that no further complaints were made. The Landlord is unaware of continued activity, and he did come to remove the dead mice.
24. I accept that the Landlord responded to the initial complaint within a reasonable timeframe. The evidence does not establish ongoing notice to the Landlord of a persistent problem after his initial intervention. The Tenant’s claim to a persistent rodent problem is dismissed.
25. Plumbing Issues: The Tenant testified to long-standing plumbing issues beginning in 2021, including slow drains in the kitchen sink and bathroom. She described severe drainage issues during winter months, requiring her to remove the P-trap and collect wastewater in buckets, significantly affecting sanitation and daily living. The Tenant could not access hot water in the sinks because it could not be drained into plastic buckets, and they would fill up quickly. There were also issues with a persistent stagnant dirty water smell and insects in the rental unit due to poor sanitation. The Tenant continued to maintain the rental unit as

best as she could with total lack of response from the Landlord in 2025 between February 16, 2025, and December 13, 2025. The Tenant testified to the impact this had on her personal hygiene and effects on the quality of her daily life.

26. The Tenant also raised an issue that she was unable to use her laundry as the pipes would back up. The Tenant started using the Landlord's laundry machines upstairs as the unit was vacant. The Tenant claims she had a verbal conversation with the Landlord, but he disagrees.
27. The Landlord testified that after purchasing the property in July 2022, he attempted repairs, including snaking the drains and hiring professional plumbers. In September 2023, pipes accessible to the plumber were replaced. The Landlord was advised by the plumber that full remediation would require rebuilding the bathroom. The Tenant was informed that she would have to vacate if those renovations proceeded. The Landlord is unaware of the Tenant using his laundry upstairs and claims it was without authorisation.
28. I find that the plumbing issues were persistent and significantly interfered with the Tenant's reasonable enjoyment of the unit. While the Landlord did make some efforts, the evidence shows that the underlying plumbing deficiency was not resolved. Also, there were no efforts to rectify or improve the situation by the Landlord despite multiple complaints throughout first half of 2025 which is the period for remedies being granted.
29. The Tenant is seeking a 20% reduction in rent for the duration of the issue. As noted above, the abatement can only go back to January 26, 2025. Lack of plumbing in the kitchen and the bathroom would affect any reasonable person's life negatively. The Tenant could not wash dishes with running water and had to be mindful of the bucket filling up. The Tenant had to empty the heavy bucket constantly. Even in the bathroom, lack of running cold and hot water made daily living arduous and non-use of a vital service impacted the Tenant gravely. On a balance of probabilities, I find the Tenant was able to prove the impact of plumbing issues in her life. The Landlord's lack of response exasperated it.
30. While the Tenant continued to occupy the unit and some plumbing functionality existed, the prolonged and unresolved nature of the plumbing deficiencies affecting essential services warrants a moderate, rather than minimal, rent abatement. I find it appropriate to grant the Tenant a 20% abatement in rent for a period of 11 months since it was ongoing. The total amount being granted is \$3,300.00 ($\$1,500.00 \times 11 \text{ months} \times .20$).
31. Heating Issues: The Tenant testified that the basement unit was consistently cold, at times falling below 15°C. She did not have access to the thermostat and relied on space heaters provided by the Landlord. She testified that the heaters were insufficient and posed safety concerns especially if left on overnight. One of the heaters stopped working after a while and no substitute was provided until she vacated. The Tenant did give a detailed list of dates from 2022, 2023 and 2024 when she requested the Landlord for heat, and he failed to respond for most of these times. The Tenant also testified that she gave up asking for anything in 2025 since there was no response from the Landlord at all, but the heat issues persisted.
32. The Landlord testified that the furnace was replaced after purchase of the property, that he responded to complaints by increasing the thermostat remotely, and that space heaters were provided. The Landlord does not find his lack of response affects the outcome as the

Tenant is able to hear the furnace kick-in once he increases the temperature. He did not find the basement to be unreasonably cold anytime he visited.

33. I do accept that the Tenant experienced ongoing heat-related concerns and lacked control over the heating system serving her unit. Heat is a vital service under the Act, and the Tenant's evidence demonstrates ongoing difficulty maintaining adequate temperatures. There are previous temperature readings sent to the Landlord in the evidence. At the same time I find that the heat issue was not a persistent one but rather intermittent days of cold temperatures. As per the Tenant's evidence in 2024 she asked the Landlord for heat 10 times. While the Tenant did not make the same number of documented requests in 2025, I accept her testimony that this was due to the Landlord's ongoing lack of response, rather than an improvement in the heating conditions.
34. On a balance of probabilities, I find that the Tenant had heating issues, but they weren't persistent. An abatement of rent based on Guideline 6 of the Board's Interpretation Guidelines states that, in determining the amount of an abatement for the violation of a tenant's rights, the Board will consider factors such as the landlord's intentions in doing the action complained of by the tenant, whether the landlord was motivated by malice toward the tenant, the extent of the harm suffered as a result of the landlord's actions, whether the tenant contributed to or aggravated the situation, the frequency or duration of the landlord's actions, including the number of occasions on which the conduct occurred. An abatement is not a punishment for the landlord but is intended to compensate the tenant for contravention of the tenant's rights. While the Guidelines are not binding upon me, I agree with the approach stated in the Guidelines.
35. The Tenant is seeking a 10% abatement for the months that she lacked adequate heat in the rental unit which I do not find reasonable. Given the intermittent nature of the heating issues and the absence of evidence that the unit was consistently below a safe temperature for entire months, a fixed monthly amount more accurately reflects the actual loss of use than a percentage-based rent abatement.
36. Therefore, a lumpsum abatement of \$50.00 per month is appropriate for eight months of heating season in the year (O.reg 516/06: Heat is vital service between September 1 to June 15 of each year). I limit the abatement to eight months to reflect the months when heating would reasonably be required in the rental unit. The total amount being awarded is \$400.00 (\$50 x 8 months)
37. Smoke and carbon monoxide detectors: The Tenant testified that in December 2025, a municipal inspection resulted in the installation of smoke and carbon monoxide alarms, as none were present or properly installed beforehand in the upper unit. She also testified the alarms were not interconnected and that there were no fire separations between units. Previously in 2023, she installed an alarm herself in her unit. There are also no alarms in the bedroom.
38. The Landlord testified that he did not receive any municipal orders or reports, that alarms were not functional in his unit. The Tenant has no right or authority to be inside his unit without permission. The alarms in the rental unit were replaced in January 2023 by the Tenant, but he paid for the alarm, and that the Tenant had not previously raised safety concerns about fire separation and interconnected alarms.

39. Some of the concerns raised by the Tenant are out of time and cannot elicit a remedy. For the other concerns some of them are not related to the rental unit itself. The lack of fire doors and/or interconnectedness of the alarms was never raised with the Landlord prior to the filing of the issues. No remedy is being granted.
40. General aesthetics of the rental unit: The Tenant testified that following the installation of a larger furnace in October 2022, a cedar wall which covered the previous furnace room, was removed, resulting in increased noise and reduced visual appeal. The Tenant and her guests had to walk past that area to access the washroom, and it gave a unesthetic look. She also testified that logs, poles and other junk stored on the property obstructed the access path to the unit. It deteriorated over time.
41. The Landlord testified that the cedar wall could not be replaced for safety reasons based on HVAC technician's advice and denied that the access path was obstructed. The Landlord testified to the hydro poles which were used to heat the garage, were not obstructing the walk path. The Tenant never complained to him about it either.
42. I accept that the removal of the cedar wall following the installation of a larger furnace altered the appearance of the rental unit and increased noise within the unit. Although I accept the Landlord's evidence that the wall could not be replaced for safety reasons, the change nonetheless negatively affected the Tenant's reasonable enjoyment of the rental unit, particularly as the area is on the path used to access the washroom. I find that the Tenant put the Landlord on notice of this issue and that no steps were taken to mitigate the impact.
43. Given that the interference affected the Tenant's enjoyment of the unit but did not render it uninhabitable and was undertaken for safety reasons, I find it reasonable to award a lump-sum rent abatement of \$450.00 to compensate the Tenant for the loss of reasonable enjoyment arising from the wall's removal. I am not granting any abatement for the claim relating to clutter or obstruction of the exterior access path, as the Tenant failed to prove on a balance of probabilities that the access was obstructed or that the Landlord was put on notice of this concern.
44. The Tenant is entitled to an abatement of rent of \$4,834.22. This amount will be deducted from the amount owing to the Landlord. This amount includes reimbursement of utility bills and the rent abatement for plumbing, heating and increased noise caused by the removal of the cedar wall.
45. The Landlord agreed to pay the Tenant \$1,500.00 in connection to her vacating because of an N12 notice.
46. There is no last month's rent deposit.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated as of December 31, 2025, the date the Tenant moved out of the rental unit.
2. The Tenant shall pay to the Landlord \$12,351.78. This amount includes rent arrears owing up to the date the Tenant moved out of the rental unit and the cost of filing the application.

The compensation for N12 notice and the amounts awarded under section 82 are deducted from the amount owing by the Tenant. See Schedule 1 for the calculation of the amount owing.

3. If the Tenant does not pay the Landlord the full amount owing on or before May 18, 2026, the Tenant will start to owe interest. This will be simple interest calculated from May 19, 2026 at 4.00% annually on the balance outstanding.

May 7 2026
Date Issued

Sheena Brar
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.

Schedule 1
SUMMARY OF CALCULATIONS

A. Amount the Tenant must pay as the tenancy is terminated

Rent Owing To Move Out Date	\$18,500.00
Application Filing Fee	\$186.00
Less the amount the Landlord owes the Tenant under section 82	- \$6,334.22
Total amount owing to the Landlord	\$12,351.78