



**Order under Section 21.2 of the
Statutory Powers Procedure Act and the
Residential Tenancies Act, 2006**

Citation: Villas of Birchfield Inc. v Cooper, 2026 ONLTB 33171

Date: 2026-05-01

File Number: LTB-L-085227-25-RV
LTB-L-015957-25

In the matter of: 23 Birchfield Dr
Courtice ON L1E1Y2

Between: Villas Of Birchfield Inc. Landlord

And

Justin Cooper Tenant

**LTB-L-085227-25-RV Review Order
LTB-L-015957-25 Hearing Order**

On February 24, 2025, Villas of Birchfield Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Justin Cooper (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes (LTB-L-015957-25). The Landlord withdrew this application based on a failure to prove service of the N4 notice of termination. However, the Tenant had raised issues under section 82(1) of the *Residential Tenancies Act* (2006) (the 'Act'). The matter was adjourned to hear only the tenant's claims under section 82(1) of the Act.

On October 8, 2025, the Landlord filed a new application against the Tenant because the Tenant did not pay the rent that the Tenant owes (LTB-L-085227-25).

This application was resolved by order LTB-L-085227-25 issued on January 15, 2026. Only the Landlord's Legal Representative Jimmy Gangadin attended the hearing held on January 6, 2026.

On March 11, 2026, the Tenant requested a review of the order and that the order be stayed until the request to review the order is resolved.

On March 11, 2026, interim order LTB-L-085227-25-RV-IN was issued, staying the order issued on January 15, 2026.

The review request for file LTB-L-085227-25 was heard by videoconference on March 26, 2026, and granted on consent. The *de novo* hearing for application LTB-L-085227-25 and the merits hearing of application LTB-L-015957-25 were held together on March 26, 2026. The Tenant's claims under section 82(1) of the Act were identical in both applications; therefore, this order resolves both.

The Landlord's Legal Representative Jimmy Gangadin, the Landlord's Agent Robyn Lydia Craig, and the Tenant Justin Cooper attended the March 26, 2026, hearing.

Determinations:

Review Request

1. The Landlord's Representative consented to the Tenant's review request. Accordingly, the review request was granted.

Lawful Monthly Rent

2. The Tenant disputed the amount of the lawful monthly rent, testifying that the rent was around \$1,650.00 in 2023, and that the Landlord's rent increases in the following years were unlawful. The Tenant did not provide any documentary evidence to support this statement, and his recollection of the rent amount in 2023 was vague.
3. The Landlord's Agent, Robyn Lydia Craig ('RC'), testified that the Landlord increased the rent each year on January 1 by serving an N1: Notice of Rent Increase. RC did not prepare the yearly N1 notices herself; however, she testified that she serves an N1 notice to each unit in the residential complex yearly, no later than September 30. RC testified that the rent charged was \$1,711.00 in 2023, \$1,754.00 in 2024, \$1,797.00 in 2025, and \$1,834.00 in 2026.
4. Given that RC's testimony was more specific, and she appeared to be checking the notices of rent increase during the hearing, I find her testimony to be more reliable regarding the amounts.
5. It was undisputed that the residential complex has a locked mailbox for each unit at the end of the street. RC testified that she delivered the N1 notices to the Tenant's unlocked mailbox next to the front door of the rental unit. RC explained that each unit in the residential complex had a similar mailbox, and that it was there since the start of the tenancy.
6. The Tenant testified that he put up the decorative mailbox near the front door himself because there was no mailbox at all at the start of the tenancy; however, he has never received mail to this mailbox. The Tenant argued that delivering documents to a decorative mailbox near the front door did not constitute valid service by mail.
7. The *Residential Tenancies Act* (2006) (the 'Act') does not require documents to be mailed; there are a variety of valid service methods. Section 191(1) states, in part:

191 (1) A notice or document is sufficiently given to a person other than the Board,
(d) by leaving it in the mail box where mail is ordinarily delivered to the person;
(e) if there is no mail box, by leaving it at the place where mail is ordinarily delivered to the person. [Emphasis added]

8. As it was undisputed that the Tenant has a locked mailbox at the end of the street where mail is ordinarily delivered, any documents served by the Landlord should have been delivered to that mailbox. The Landlord did not lead evidence to show that the decorative mailbox near the rental unit door was used on a regular basis, and the Tenant denied receiving documents there. Accordingly, I am not satisfied that the N1 notices of rent increase were validly served to the Tenant.
9. Section 116(4) of the Act states, "An increase in rent is void if the landlord has not given the notice required by this section, and the landlord must give a new notice before the landlord can take the increase." Given that the Landlord's N1 notices were not validly served, I find them to be void.
10. Section 135.1(1) of the Act states, "An increase in rent that would otherwise be void under subsection 116 (4) is deemed not to be void if the tenant has paid the increased rent in respect of each rental period for at least 12 consecutive months." It was undisputed that the Tenant's last rent payment was on September 8, 2024. Since the Tenant did not pay the increased rent in 2024 for 12 consecutive months, that rent increase is not deemed valid by section 135.1. The same applies for each subsequent rent increase.
11. For all of the above reasons, I find that the lawful rent remains at \$1,711.00, the amount charged in 2023.

N4 Notice of Termination

12. On September 17, 2025, the Landlord served the Tenant an N4: Notice to End your Tenancy for Non-payment of Rent ('N4 Notice').
13. The N4 Notice claims rent arrears from February 1, 2018, to September 30, 2025, but does not include a rent ledger explaining the calculation of the amount owing. The Landlord did not provide a rent ledger during the hearing either. As such, it is unclear whether the Landlord included the yearly rent increases in the calculations. However, given that the application states that the rent in 2025 \$1,800.00, I find it more likely than not that the Landlord did include the rent increases in the amount owing.
14. Given my finding that the lawful rent remains at \$1,711.00, but the N4 Notice claims arrears based on the increased rent amounts, I find that the notice does not accurately reflect the amount of arrears. This is contrary to subsection 59(2) of the Act, which requires notices of termination for non-payment of rent to accurately set out the amount of rent due. Therefore, I find the N4 Notice defective. Termination of the tenancy cannot be ordered based on a defective notice.

Rent Arrears

15. The Tenant disputed the amount of rent arrears, testifying that some payments made by the Tenant's mother who has now passed away were not accounted for. The Tenant also testified that he paid the Landlord in U.S. dollars and was misinformed about the exchange rates to Canadian dollars. The Tenant submitted that this resulted in miscalculations in the Landlord's claimed arrears.

16. The Tenant did not submit documentary evidence to support these statements or give any specifics regarding the alleged payments made. As such, I am not satisfied that the Tenant or his family made payments which were unaccounted for, or that the Landlord miscalculated the Tenant's payments due to the currency exchange rate. I found it appropriate to base the calculation of rent arrears on the Landlord's evidence.
17. However, even if I consider only the Landlord's evidence in calculating the rent arrears, I find there to be insufficient and conflicting information for such a determination. The Landlord did not provide a rent ledger despite claiming arrears for the past eight years, and there were inconsistencies in the documents submitted.
18. When presenting the L1/L9 Update Sheet, the Landlord's Representative stated that the lawful monthly rent was \$1,800.00 as of the hearing date. However, this was contradicted by the Landlord's Agent later in the hearing, who stated that the rent starting on January 1, 2026, was \$1,834.00. The Landlord's application, filed on October 8, 2025, is also inconsistent with the Agent's testimony, as it claimed that the monthly rent was \$1,800.00 as of the filing date. However, the Landlord's Agent testified that the monthly rent in 2025 was \$1,797.00, not \$1,800.00.
19. The Landlord has not proven, on a balance of probabilities, that the amount they claimed as rent arrears is actually owing. Therefore, the application is dismissed.

Section 82 – Limitation Period

20. The Tenant raised various maintenance issues under section 82 of the Act. An application to the Board claiming such issues is made under section 29(1) of the Act. Therefore, the limitation period set out in subsection 29(2) applies, stating "No application may be made under subsection (1) more than one year after the day the alleged conduct giving rise to the application occurred."
21. An application is fundamentally a statement of issues and a request for relief. In order to consider an application "filed", there must be a proactive step taken by the party raising the issue. Similarly, when a tenant raises issues under section 82(1), they must give the Landlord notice of their intention to raise these issues at the hearing pursuant to subsection 82(2). In my view, the one-year limitation period applies, as raising issues under section 82(1) of the Act is functionally equivalent to filing an application under section 29(1). The limitation period runs from the date the Tenant gives the Landlord notice under subsection 82(2), not the date the Landlord files their application. Landlords do not disclose tenant issues on their application when filing, so the responsibility rests with tenants to raise their issues in a timely manner.
22. The Landlord's Representative argued that the Tenant's concerns are all outside the limitation period, despite some being ongoing, because the issues started prior to August 4, 2024. I disagree. Where an issue is ongoing, the conduct giving rise to the application continues to occur. Therefore, a tenant can still file an application or raise section 82(1) issues based on events that continued during the one year prior to filing. Preventing a tenant from raising issues that are ongoing simply because they started more than one year prior would be grossly unfair.

23. In this case, the Tenant first disclosed his section 82 issues on August 4, 2025, under application LTB-L-015957-25. Therefore, only events occurring or continuing on or after August 4, 2024, are considered in this order.

Section 82 – Merits

Maintenance Issues

24. The Tenant testified about the state of the rental unit and provided photographs taken in the early summer of 2025 to support his testimony.
25. The Tenant explained the plumbing in the whole rental unit was in a poor state of repair, causing persistent leaks. These leaks cause water damage, rot, and mould, and require the Tenant to place buckets under the pipes to contain the water. In particular, the Tenant's photographs showed a stream of water flowing from a pipe in the upstairs washroom, the kitchen sink falling through the countertop due to rot, water damage and black residue in the kitchen cupboards, wall drywall bubbling, rotting baseboards, cracked tiles, and a peeling and cracked ceiling.
26. The Tenant also testified about various other issues, including: the laundry sink in the basement missing a leg, a large hole in the wall, electrical sockets being loose, a hole between the bedroom and bathroom wall, the attic door almost falling from the ceiling, the back sliding door not closing all the way, the main floor bathroom hot water faucet missing, no locks on the bathroom doors, the windows not having springs or locks and allowing a draft through the unit, and the front door rotting.
27. The Tenant also testified that, two days prior to the initial hearing for LTB-L-015957-25 on August 11, 2025, there was a major flood in the basement due to a pipe bursting. This disrupted the electricity and water heater because the water went through the walls. The Tenant was without hot water for a month.
28. According to the Tenant, all the issues except the flood started prior to August 4, 2024.
29. On January 22, 2024, the Tenant sent an e-mail to the Landlord's Agent, notifying her about the water leaking from the pipes, the electrical outlets not working, the toilet not working, the disrepair in the windows and doors, lack of screens on the windows, no locks on the back door and windows, water damage, the lack of a portable fire extinguisher, and the lack of a fan in the bathroom ceiling. RC acknowledged receipt of this e-mail.
30. The remaining issues were disclosed to the Landlord on August 4, 2025, except the flood which occurred on August 9, 2025. The Tenant brought the flood to the Landlord's attention at the August 11, 2025, hearing.
31. Although the Tenant stated that the Landlord was aware of all the issues since the beginning of the tenancy, there was insufficient evidence for such a finding. Accordingly, I find that the Landlord became aware of the issues disclosed in the January 22, 2024, e-mail, on that date. The Landlord became aware of the flood on August 11, 2025, and the remaining issues on August 4, 2025.

32. The Landlord did not dispute the state of the unit, only questioning whether the black residue in the kitchen cupboards, washrooms, and under the sinks was in fact mould. Therefore, I find, on a balance of probabilities, that the rental unit is in a poor state of repair as described by the Tenant.

Landlord's Repairs

33. 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.
34. RC testified that she responded to the Tenant's January 22, 2024, e-mail that same day and requested him to provide his availability for repairs. The Tenant provided a January 26, 2024, e-mail in which he responded to RC, stating that he would ensure his schedule would align with the repair workers. RC denied receiving the January 26, 2024, e-mail, but admitted that she did not arrange for an inspection or repairs at the time. RC explained that she prioritizes tenants who complain persistently.
35. It was undisputed that the Landlord did not start repairs until after the Tenant disclosed his full list of issues under section 82 on August 4, 2025. This is a delay of over 18 months, which is substantial. I do not find that RC's explanation of prioritizing persistently complaining tenants justifies the delay. Regardless of whether she obtained the Tenant's availability for the repairs on January 26, 2024, the Landlord had the right, under section 27(1) of the Act, to enter the unit after giving 24 hours' notice. The repairs should have been started much sooner.
36. RC testified that an electrician resolved the damage caused by the flood by September 4, 2025, restoring hot water in the unit. It was undisputed that the Landlord repaired the windows and doors of the rental unit on October 5, 2025. RC stated that she was not aware that the back sliding door still had a crack after that date. The Tenant also provided testimony regarding the dates of repairs, but he was vague and uncertain in this regard. As such, I prefer the testimony of RC regarding the repair dates.
37. RC testified that the Landlord was prepared to gut the kitchen and bathroom in August 2025. However, when she attended the unit with the repairman Peter, he and the Tenant had an altercation. RC explained that the plumber the Landlord hired was prepared to repair all the pipes once the unit is gutted but did not want to do partial repairs because he wanted to avoid doing further damage to the system.
38. The Tenant explained that he knows Peter personally and witnessed certain behaviour which he felt was unsafe. The Tenant has two children and does not want Peter around them but has no issue with other repairmen. RC confirmed that the Tenant allowed entry to other repairmen; it was just Peter that he interfered with.
39. The Landlord's Representative argued that, since the Tenant interfered with the Landlord's efforts to repair the unit, he effectively contributed to the disrepair, and his

section 82 issues should be dismissed in their entirety. I agree that the Tenant should not have interfered with the Landlord's repair efforts; there were ways to mitigate Peter's presence, such as having the Tenant's children leave the unit for certain periods while the repairs were conducted. However, I do not find that this completely negates the disrepair, though it does affect the remedies to be awarded.

40. Of the whole list of issues, only the electrical issues from the August 9, 2025, flood were remediated, as well as the windows and exterior doors. All the other issues remained outstanding as of the hearing date.
41. Given that the Landlord was aware of the issues for a substantial amount of time and has not yet completed them, I find that the Landlord is in breach of their maintenance obligations under section 20(1) of the Act.

Remedies

42. Although the Landlord became aware of the major issues in the rental unit on January 22, 2024, the remedies under section 82(1) of the Act are limited by the one-year limitation period. Since the Tenant disclosed his list of issues under section 82(1) of the Act on August 4, 2025, remedies can only be awarded for the period August 4, 2024, and onward.
43. Based on the evidence provided, I am satisfied that the rental unit is in a poor state of repair throughout. The plumbing issues in particular, are concerning, as they affect the whole unit in various ways. The Tenant testified that, because the kitchen sink fell through the countertop due to rot, he has had to wash his dishes in the bathtub since August 2025. He also observed mushrooms growing from the cracks in the tiles in the upstairs bathroom. The Tenant's mental health has suffered as a result of the longstanding disrepair, and his daughter has developed asthma. Although no medical documentation was presented, I accept the Tenant's testimony on these issues as he was specific and detailed. I am satisfied that the disrepair has significantly affected the Tenant and his family's reasonable enjoyment of the unit.
44. Based on the number and severity of the issues, the duration they remained unresolved, and the effect on the Tenant, I find a 70% rent abatement to be appropriate for the period of August 4, 2024, to March 26, 2026. An additional 10% is added for the period of August 11, 2025, to September 4, 2025, for the duration that the Tenant was without hot water after the August 9, 2025, flood. 5% is deducted from the rent abatement for the period of August 4, 2025, to March 26, 2026, due to the Tenant's interference with the Landlord's repair efforts. An additional 10% is deducted from October 5, 2025, to March 26, 2026, to account for the repairs done to the windows and exterior doors.
45. The total the Landlord must pay the Tenant is \$22,183.00.

It is ordered that:

1. The request to review order LTB-L-085227-25 issued on January 15, 2026, is granted. The order is cancelled and replaced with the following.
2. The interim order issued on March 11, 2026, is cancelled.

3. The Landlord's application is dismissed.
4. The total amount the Landlord shall pay the Tenant for the issues raised under section 82(1) of the Act is \$22,183.00.
5. The Landlord shall pay the Tenant the full amount owing by May 31, 2026.
6. If the Landlord does not pay the Tenant the full amount owing by May 31, 2026, the Landlord will owe interest. This will be simple interest calculated from June 1, 2026, at 4.00% annually on the balance outstanding.
7. If the Landlord does not pay the Tenant the full amount owing by May 31, 2026, the Tenant may recover this amount by deducting \$1,711.00 from the rent each month starting on June 1, 2026, until the amount is reimbursed in full.
8. The Tenant has the right, at any time, to collect the full amount owing or any balance outstanding under this order.

May 1, 2026
Date Issued

Kate Sinipostolova
Member, Landlord and Tenant Board

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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.