



Order under Section 69 Residential Tenancies Act, 2006

Citation: Was v Orellana Alvarez, 2026 ONLTB 36500

Date: 2026-05-05

File Number: LTB-L-102985-25

In the matter of: 1st Floor, 67 VANEVERY ST
ETOBICOKE ON M8V1Y5

Between: Henryk Was Landlord

And

Juan Francisco Orellana Alvarez Tenant

Henryk Was (the 'Landlord') applied for an order to terminate the tenancy and evict Juan Francisco Orellana Alvarez (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on February 12, 2026.

The Landlord, the Landlord's legal representative, Agnieszka Magdalena Czajkowski, the Tenant's representative, Fraidel Payne, and the Tenant attended the hearing.

Determinations:

Arrears

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. As of the hearing date, the Tenant was still in possession of the rental unit.
3. The lawful rent is \$1,528.85. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$50.26. This amount is calculated as follows: \$1,528.85 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.

6. The Tenant did not dispute that rent for December 2025, January 2026 and February 2026 has not been paid. The Tenant did, however, dispute the Landlord's position that rent for June 2025 and October 2025 also remains outstanding.
7. In support of the disputed payments, the Tenant relied on two e-transfer screenshots in the amount of \$1,497.40 each, said to have been sent to the Landlord on June 11, 2025 and October 1, 2025, both indicating an auto-deposit status. The Tenant also relied on an audio recording of a telephone conversation said to have taken place with the Landlord in November 2025, which the Tenant submitted captured the Landlord acknowledging that October's rent had been received.
8. The Landlord's evidence was that neither payment was received. He produced his own bank statements for June 2025 and October 2025, neither of which records an incoming e-transfer in the amount of \$1,497.40 from the Tenant. On cross-examination, the Landlord's representative drew attention to the formatting of the dates appearing on the Tenant's screenshots, which did not conform to standard e-transfer confirmation formatting. The Tenant did not produce his own bank statements showing the corresponding withdrawals from his account.
9. Having listened to the audio recording, I do not find that the recording clearly captures any acknowledgement by the Landlord that October 2025 rent was paid. The conversation is ambiguous and falls short of an admission. Weighing the evidence, I prefer the Landlord's bank statements over the Tenant's screenshots. The bank statements are records issued by a financial institution and document what was actually received in the Landlord's account; the screenshots, by contrast, were not corroborated by any contemporaneous record from the Tenant's own bank account showing the funds debited. On a balance of probabilities, I find that rent for June 2025 and October 2025 was not received by the Landlord and remains owing.
10. The rent arrears owing to February 28, 2026 are \$7,482.68.
11. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

Section 82 issues

12. Section 82 of the *Residential Tenancies Act, 2006* (the "Act") permits a tenant in an L1 application to raise any issue that could be the subject of an application made by the tenant under the Act, provided that the tenant complies with the notice requirements set out in subsection 82(2). The Tenant did not file a written description of the section 82 issues in advance of the hearing. At the outset of the hearing, the Landlord's legal representative confirmed that the Landlord was prepared to proceed and was not prejudiced by the absence of a written description. On that basis, I exercised my discretion to permit the Tenant to raise the issues set out below.

Hot Water: September 2025

13. The Tenant alleges that the supply of hot water to the rental unit was interrupted in early September 2025 and was not restored until on or about September 23, 2025. In support,

the Tenant produced text message correspondence between his daughter and the Landlord, including a message dated September 3, 2025 advising the Landlord that the unit had no hot water and asking the Landlord to address the issue at his earliest convenience.

14. The Landlord acknowledged that he was notified of the issue on or about September 3, 2025. He testified that he attended at the residential complex within a few days of being notified, purchased a new hot water tank and effected the repair himself. The Landlord was unable to recall the date on which the repair was completed and produced no receipt, invoice or other documentary evidence corroborating when, or even that, the repair was carried out.
15. Having considered the evidence, I prefer the Tenant's account. The Tenant's evidence was concise, internally consistent and supported by contemporaneous documentary evidence in the form of the September 3, 2025 text message. The Landlord's evidence, by contrast, was vague as to timing and unsupported by any documentation. Hot water is a vital service. Taking the Tenant's evidence to be more reliable, the interruption of hot water service for approximately three weeks was not addressed by the Landlord within a reasonable time and constitutes a substantial interference with the Tenant's reasonable enjoyment of the rental unit.

Hot Water: October 2025

16. The Tenant further alleges that the supply of hot water was again interrupted at the very beginning of October 2025 and was not restored until the middle of that month. The Tenant requested the same monetary remedy in respect of this period.
17. Other than oral testimony, the Tenant did not produce any evidence that the Landlord was notified of an October 2025 interruption. The text message correspondence in evidence relates only to the September 2025 issue. The Landlord testified that he had no recollection of any hot water issue in October 2025.
18. The onus to establish a breach of the Act on a balance of probabilities rests with the Tenant. In the absence of any evidence that the Landlord was notified of the alleged October 2025 interruption, I am not satisfied that the Tenant has established a breach in respect of October 2025. This part of the section 82 claim is dismissed.

Remedy

19. The Tenant requested an abatement equivalent to one month's rent (\$1,497.40) in respect of the cumulative impact of the alleged interruptions in September and October 2025. Having found a breach only in respect of September 2025, and considering the duration of the interruption (approximately three weeks), the importance of hot water as a vital service, and the inconvenience caused to the household, I find that an abatement equivalent to one half of one month's rent is appropriate in the circumstances.
20. The Tenant is entitled to an abatement of rent in the amount of \$748.70 in respect of the interruption of hot water service in September 2025. This amount will be deducted from the amount otherwise owing to the Landlord.

Rent deposit

21. The Landlord collected a rent deposit of \$1,350.00 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.
22. Interest on the rent deposit, in the amount of \$312.49 is owing to the Tenant for the period from January 1, 2013 to February 12, 2026.

Relief from Eviction

23. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act, including the length of the tenancy, the Tenant's personal circumstances, his ability to pay, and the impact eviction would have on the Tenant and his adult daughter who has resided in the rental unit since she was a child.
24. The Tenant has lived in the rental unit for approximately 13 years. He resides with his adult daughter, who is now 26 years old, works full-time as a registered nurse and grew up in the rental unit. The Tenant testified that his monthly income ranges from \$2,000 to \$4,000 and that his monthly expenses, exclusive of rent, are approximately \$1,500, including approximately \$600 for a vehicle and additional amounts for utilities, food and internet.
25. The Tenant proposed a repayment plan consisting of payment of ongoing monthly rent at the lawful rate of \$1,528.85 commencing March 1, 2026, plus an additional \$400 per month towards the arrears. He indicated that he was presently in a position to pay \$4,492.20 representing rent that had been withheld in recent months.
26. Considering the Tenant's proposed repayment plan against his own evidence as to income and expenses, I am not satisfied that the proposal is realistic. The arrears are substantial. Even taking the Tenant's stated income at the higher end of the range, an additional \$400 per month towards arrears, on top of monthly rent at the increased lawful rate, would not retire the existing arrears within a reasonable period of time, and at the lower end of the range, the proposal is not viable. I am not persuaded that imposing the proposed repayment terms would result in a sustainable tenancy. I therefore decline to grant relief from eviction on conditions under subsections 83(1)(a) and 204(1) of the Act on the terms proposed by the Tenant.
27. I am, however, satisfied that the length of this tenancy, in particular the fact that the Tenant has lived in the rental unit for approximately 13 years and raised his daughter in the unit, justifies a meaningful postponement of the eviction. A standard termination date would not, in my view, be fair to the Tenant in light of the duration of his tenure in the unit and the established household he has built there. Postponing the eviction to June 30, 2026 will give the Tenant a reasonable opportunity to either bring the arrears current and void this order or arrange alternative accommodation in an orderly manner.
28. 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.

It is ordered that:

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:**
 - \$11,506.53 if the payment is made on or before May 31, 2026. See Schedule 1 for the calculation of the amount owing.

OR

- \$13,035.38 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 Landlord \$4,331.76. 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 and the rent abatement/rebate awarded to the Tenant 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 \$50.26 per day for the use of the unit starting February 13, 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 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 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 July 1, 2026.

May 5, 2026
Date Issued

Colin Elsby
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 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 May 31, 2026

Rent Owing To May 31, 2026	\$12,069.23
Application Filing Fee	\$186.00
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$748.70
Total the Tenant must pay to continue the tenancy	\$11,506.53

B. 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	\$13,598.08
Application Filing Fee	\$186.00
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$748.70
Total the Tenant must pay to continue the tenancy	\$13,035.38

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

Rent Owing To Hearing Date	\$6,556.95
Application Filing Fee	\$186.00
Less the amount of the last month's rent deposit	- \$1,350.00
Less the amount of the interest on the last month's rent deposit	- \$312.49
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$748.70
Total amount owing to the Landlord	\$4,331.76
Plus daily compensation owing for each day of occupation starting February 13, 2026	\$50.26 (per day)
**Ongoing daily compensation continues to accumulate until the total amount owing (excluding costs) is \$50,000.00.	

