



Order under Section 69 Residential Tenancies Act, 2006

Citation: CLAYTON v ROSS, 2026 ONLTB 36629

Date: 2026-05-07

File Number: LTB-L-016657-26

In the matter of: 187 THOMPSON RD
CALEDONIA ON N3W0C2

Between: RICHARD CLAYTON Landlord

And

BRITTNI ROSS Tenant
KHALID MENDEZ

RICHARD CLAYTON (the 'Landlord') applied for an order to terminate the tenancy and evict BRITTNI ROSS and KHALID MENDEZ (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).

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on May 4, 2026.

Only the Landlord attended the hearing.

As of 10:08 a.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

L1 Application – Non-Payment of Rent

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 \$2,195.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$72.16. This amount is calculated as follows: \$2,195.00 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to May 31, 2026 are \$11,076.42.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlord collected a rent deposit of \$1,895.00 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.
9. Interest on the rent deposit, in the amount of \$13.52 is owing to the Tenant for the period from January 1, 2026 to May 4, 2026.

L2 Application – Persistent Late Payment of Rent

10. The Tenant has persistently failed to pay the rent on the date it was due. The rent is due on the 1st day of each month. The rent has been paid late 7 times in the 12-month period prior to the service of the N8 notice of termination. The Tenant has made no payments since the N8 notice of termination was served.
11. The Tenant was also subject to a previous prompt payment order of the Board. The Landlord testified that the Tenant followed this order and paid on time for approximately 18 months, but then reverted to paying their rent persistently late.

Relief from Eviction

12. The Landlord seeks a termination of the tenancy as the rent arrears are substantial and the Tenant has not been responsive to efforts to establish a repayment plan for the rent arrears. The Landlord additionally seeks termination on a non-voidable basis due to the Tenant's history of persistent late payment of rent.
13. The Tenant did not attend to give evidence as to their personal circumstances. The Landlord informed me that he believes three school-aged children live in the rental unit.
14. 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.
15. I find that this short delay to the end of the tenancy month to allow the Tenant further time to find new accommodations in light of the children living in the rental unit is not unfair in these circumstances, but that any further delay would be unfair to the Landlord given the substantial arrears. I further find it would be unfair to deny eviction on a non-voidable basis given the Tenant's extensive history of persistent late payment of rent.

It is ordered that:

1. Pursuant to the L2 Application, the tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before May 31, 2026. Given the above, this order cannot be voided by the payment of the outstanding rental arrears.
2. The Tenant shall pay the Landlord any rent arrears owing up to the date of the hearing and the cost of filing the application. The amount of the rent deposit and interest the Landlord owes on the rent deposit are deducted from the amount owing by the Tenant.
3. As of the date of the hearing, the Tenant owes the Landlord \$7,447.54. See Schedule 1 for the calculation of the amount owing.
4. The Tenant shall also pay the Landlord compensation of \$72.16 per day for the use of the unit starting May 5, 2026 to the date the Tenant moves out of the unit.
5. 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.
6. 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.
7. 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.

May 7, 2026
Date Issued

Benjamin Seigel
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 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.

Schedule 1
SUMMARY OF CALCULATIONS

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

Rent Owing To May 4, 2026	\$9,170.06
Application Filing Fee	\$186.00
Less the amount of the last month's rent deposit	-\$1,895.00
Less the amount of the interest on the last month's rent deposit	-\$13.52
Total amount owing to the Landlord	\$7,447.54
Plus daily compensation owing for each day of occupation starting May 5, 2026	\$72.16 (per day)