



**Order under Section 69
Residential Tenancies Act, 2006**

File Number: LTB-L-009477-26

In the matter of: 3032, 2869 BATTLEFORD RD
MISSISSAUGA ON L5N2S6

Between: Morguard NAR Canada Limited Partnership Landlord

And

Efren Martinez Tenant

Morguard NAR Canada Limited Partnership (the 'Landlord') applied for an order to terminate the tenancy and evict Efren Martinez (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on April 27, 2026.

The Landlord's Representative, Natalia Abiniakine, 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. As of the hearing date, the Tenant was still in possession of the rental unit.
3. The lawful rent is \$1,920.89. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$63.15. This amount is calculated as follows: $\$1,920.89 \times 12$, divided by 365 days.

What is the lawful rent?

The rule in Price v. Turnbull's Grove Inc.

5. In *Price v. Turnbull's Grove Inc.*, 2007 ONCA 408, the Court considered provisions as they existed in the former legislation that are basically the equivalent of the current subsections 116(4), 136(1) and (2) of the *Residential Tenancies Act, 2006* (the "Act"). Those subsections read as follows:

116. (4) 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.

136. (1) Rent charged one or more years earlier shall be deemed to be lawful rent unless an application has been made within one year after the date that amount was first charged and the lawfulness of the rent charged is in issue in the application.

136. (2) An increase in rent shall be deemed to be lawful unless an application has been made within one year after the date the increase was first charged and the lawfulness of the rent increase is in issue in the application.

6. To meet the requirements of s. 116 a notice of rent increase ('NORI') must be in the prescribed form, it must set out the landlord's intention to increase the rent and the amount of the new rent, and it must be served at least 90 days in advance of the effective date of the rent increase. Pursuant to s. 116(4) a NORI that does not meet these requirements is "void".
7. The rule set out by the Court in *Price v. Turnbull's Grove Inc.* is that a NORI that is "void" because it does not meet the requirements of what is now s. 116 cannot be saved or deemed to be a valid increase by operation of s. 136. This is because the word "void" means the notice is a nullity just like if it had never been served at all. The Court explained that what is now s. 136 only applies to NORIs that meet the requirements of s. 116 but are otherwise invalid.
8. For example, where an otherwise valid NORI purports to raise the rent by more than the guideline amount that notice will be invalid but not void. This is because getting the amount wrong means the NORI does not meet the requirements of s. 120 of the Act, but it is not "void" within the meaning of s. 116. Section 120 does not have a similar provision to s. 116(4) – getting the amount wrong does not make the NORI "void". Section 136 "cures" these kinds of notices and makes the invalid increase valid if the increase is not challenged within a year of the effective date.
9. In determining the amount of the lawful rent in this case, I have considered the parties' evidence regarding the rent increases since 2022 and the provisions of the Act.
10. The earliest rent increase that was addressed was from 2022. It was undisputed that the Landlord gave the Tenant an N1 Notice of Rent Increase for an increase to \$1,859.62, which was to take effect on October 1, 2022. It is difficult to understand how the Landlord arrived at this amount, particularly since the Landlord also gave the Tenant a letter in dated July 5, 2022, which states that the rent for 2021 was \$1,763.46. However, it is not necessary for me to reconcile these amounts because the rent increase in 2022 is deemed lawful in any event pursuant to subsection 136(2) of the Act.
11. The Landlord subsequently gave the Tenant an N1 Notice for an increase to \$1,907.02, which was to take effect on October 1, 2023. That increase is also deemed lawful under subsection 136(2) of the Act.

12. For 2024, the Landlord gave the Tenant an N1 notice for an increase to \$2,011.48, effective October 1, 2024. This N1 Notice increased the rent by 5.5%, including an increase from an Above Guideline Rent Increase (AGI) Application, which remains pending before the LTB. Pursuant to subsection 126(5), the Tenant was only required to pay the amount of the guideline increase – 2.5%. Accordingly, the lawful rent beginning October 1, 2024 was \$1,954.69.
13. Effective February 1, 2025, the rent decreased to \$1,874.04 because the Tenant cancelled one of their parking spots. This is indicated in the Landlord's ledger.
14. The Landlord then gave the Tenant an N1 Notice for 2025 which increased the rent by 3.5%, including another pending AGI Application. Pursuant to subsection 126(5), the Tenant was only required to pay the amount of the guideline, which was 2.5%. This increased the lawful monthly rent to \$1,920.89. This is the amount the Landlord has included in their L1/L9 Update Sheet as the current rent charged to the Tenant. I find that the Landlord has proven on a balance of probabilities that this is the current lawful monthly rent.
15. The Tenant has paid \$5,444.82 to the Landlord since the application was filed.
16. The rent arrears owing to April 30, 2026 are \$4,065.66.
17. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
18. The Landlord collected a rent deposit of \$1,838.46 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.
19. Interest on the rent deposit, in the amount of \$12.38 is owing to the Tenant for the period from January 1, 2026 to April 27, 2026.

Relief from eviction

20. The Tenant is seeking to preserve the tenancy and would like to make payments each month in order to make the Landlord whole again. The Tenant testified that he has lived in the rental unit for 8 years with his son. He proposed a payment plan of \$100.00 a month, in addition to the monthly rent. The Tenant said their total income from all sources is approximately \$3,500.00, each month, and his expenses are approximately \$3,200.00, including rent. He said she does not want to lose his home, where he has lived since 2018.
21. The Landlord's representative did not oppose the Tenant's request for a payment plan.
22. Having considered the evidence of the parties, I was satisfied the Tenant's proposal was reasonable given the evidence on their finances. Given the remedial purpose of the Act, I find it appropriate to grant the Tenant relief in all the circumstances.
23. The tenancy is considered a long-term tenancy, and the Tenant should be given the opportunity to both preserve their housing and make the Landlord whole again. The Landlord did not oppose the Tenant's request and is protected if there is any breach to the payment plan by filing their application within 30 days for an eviction order, without prior notice to the Tenant.

24. 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 grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.

It is ordered that:

1. The Tenant shall pay to the Landlord \$4,251.66 for arrears of rent up to April 30, 2026, and costs.
2. The Tenant shall pay to the Landlord the amount set out in paragraph 1 in accordance with the following schedule:
 - On or before the 15th of every month, for the period starting May 15, 2026, to October 15, 2029, the amount of \$100.00; and,
 - On or before November 15, 2029, the amount of \$51.66.
3. If not already paid, the Tenant shall pay to the Landlord the rent for the month of May by May 22, 2026.
4. The Tenant shall also pay to the Landlord new rent on time and in full as it comes due and owing for the period June 1, 2026, to November 30, 2029, or until the arrears are paid in full, whichever date is earliest.
5. If the Tenant fails to make any one of the payments in accordance with this order, the outstanding balance of any arrears of rent and costs to be paid by the Tenant to the Landlord pursuant to paragraph 1 of this order shall become immediately due and owing and the Landlord may, without notice to the Tenant, apply to the LTB within 30 days of the Tenant's breach pursuant to section 78 of the Act for an order terminating the tenancy and evicting the Tenant and requiring that the Tenant pay any new arrears, NSF fees and related charges that became owing after April 30, 2026.

May 15, 2026
Date Issued

Colette Myers
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.