



Order under Section 69 Residential Tenancies Act, 2006

File Number: LTB-L-032023-26

In the matter of: 214 Randall Cres COUNTY ROAD 28
Fraserville ON M1M3K2

Between: Shaheda Jesmin Landlord

And

Tyler Cross
Jacina Burkitt cross Tenants

Shaheda Jesmin (the 'Landlord') applied for an order to terminate the tenancy and evict Tyler Cross and Jacina Burkitt cross (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on May 15, 2026.

The Landlord and the Tenants attended the hearing.

Determinations:

1. For the reasons stated at the hearing, the Landlords' Form N4 Notice of Termination was defective as it does not correctly identify the rent arrears owing by the Tenant as required by subsection 59(2) of the *Residential Tenancies Act, 2006* ("Act").
2. The Board issued order LTB-L-002282-26 which is an order for arrears owing from June 1, 2024 to March 31, 2026.
3. The N4 Notice that gave rise to this application included arrears owing from June 1, 2024 to March 31, 2026.
4. The courts have made it clear that a party may not relitigate a matter that has already been determined on the legal principle of res judicata. In *Erschbamer v. Wallster*, 2013 BCCA 76, the Court of Appeal for British Columbia provided a helpful explanation of the nature doctrines of res judicata as follows:

"The doctrine [of res judicata] has two aspects, issue estoppel and cause of action estoppel. In brief terms, issue estoppel prevents a litigant from raising an issue that has already been decided in a previous proceeding. Cause of action estoppel prevents a litigant from pursuing a matter that was or should have been the subject of a previous proceeding. If the technical requirements of issue estoppel or cause of action estoppel are

not met, it may be possible to invoke the doctrine of abuse of process to prevent re-litigation of matters.”

5. Therefore, I find the notice to be invalid by virtue of *res judicata*. After I found that the N4 Notice was defective, the Landlords requested the consent of the Board to withdraw the application. In accordance with subsection 200(4) of the Act, I consent to the withdrawal of the application.

It is ordered that:

1. The Landlord’s application is withdrawn.

May 19, 2026
Date Issued

Elena Jacob
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.