



Amended Order
Order under Section 69
Residential Tenancies Act, 2006
And section 21.1 of the **Statutory Powers Procedure Act**

File Number: LTB-L-003563-26-AM

In the matter of: Room B, 30 WEYMOUTH RD
BARRIE ON L4M6R9

Between: Kenneth Kan Landlord

And

Marilyn McKay Tenant

Kenneth Kan (the 'Landlord') applied for an order to terminate the tenancy and evict Marilyn McKay (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on March 18, 2026.

The Landlord's Legal Representative Nicole Fazzari and the Tenant Marilyn McKay attended the hearing.

This amended order is issued to correct clerical errors in the order issued on April 7, 2026.

Determinations:

The Tenant's claim under section 82

1. The Tenant filed a "Tenant Issues" form raising issues under section 82 of the Residential Tenancies Act, 2006 (the "Act"). However, at the hearing the Tenant stated that they did not wish to proceed with those issues in this application and instead wished to have them addressed in their separately filed T2 application. In the circumstances, the Tenant did not pursue any section 82 issues in this proceeding, and no section 82 claim was heard or determined in this order.

The Landlord's application for rent arrears

2. 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.
3. As of the hearing date, the Tenant was still in possession of the rental unit.

4. The lawful rent is \$800.00. It is due on the 1st day of each month.
5. Based on the Monthly rent, the daily rent/compensation is \$26.30. This amount is calculated as follows: \$800.00 x 12, divided by 365 days.
6. The Tenant has paid \$1,632.00 to the Landlord since the application was filed.
7. The Landlord takes the position that the rent arrears owing to March 31, 2026, are \$2,052.00.
8. The Tenant disputes the rent arrears amount on the basis of order LTB-L-043498-25. The Tenant says that, because of that order, she was not liable to pay some of the rent claimed in the N4 Notice. However, the Tenant acknowledged at the hearing that the sum of \$2,052.00 claimed in this L1 application was never paid.
9. I accept that the Tenant mistakenly believed that, because order LTB-L-043498-25 determined that she was previously not required to remit rent while the Landlord was in breach of section 12 of the Act, the rent for those periods would never become payable. However, that is not the effect of section 12 of the Act or of the prior order. Section 12 does not permanently extinguish the Tenant's obligation to pay rent. Rather, where a tenant is not required to remit rent because of a landlord's breach of section 12, the unpaid rent becomes due and owing once the breach has been remedied. In this case, the parties agree that the Landlord's breach of section 12 had been remedied by December 18, 2025, and therefore any rent that was not required to be remitted while the breach continued again became due and owing once that breach was cured.
10. On the basis of the evidence before the Board, I find that the rent arrears owing to March 31, 2026, are \$2,052.00. I am satisfied that the arrears claimed in this application are correct and are not affected by order LTB-L-043498-25. The parties agreed that, as of December 18, 2025, when the N4 Notice was served, the Landlord was no longer in breach of section 12 of the Act. The Tenant admitted that the Landlord's address had been provided to her by the Landlord's legal representative on December 17, 2025.
11. As a result, whatever effect order LTB-L-043498-25 may have had during the period when the Landlord was in breach of section 12, that order does not excuse the Tenant from paying all previously unpaid rent once the breach was remedied. Accordingly, I find that the unpaid rent for the rental periods claimed in this application is due and owing.
12. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
13. The Landlord collected a rent deposit of \$800.00 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.

Relief from eviction

14. The Tenant requested temporary relief from eviction due to an upcoming surgery, although no documentary evidence of the surgery was disclosed or filed. The Tenant also stated that she is a good tenant, that she wants to maintain the tenancy, and that she believed

she did not have to pay the arrears because of order LTB-L-043498-25. The Tenant stated that if given relief she could pay the arrears by the end of April 2026.

15. The Landlord opposed relief from eviction. The Landlord submitted that the Tenant does not dispute that the rent was not paid, that communication with the Tenant regarding the arrears has been difficult, and that the Tenant has not provided proof of the alleged surgery. The Landlord opposed a payment plan and sought a standard order.
16. 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. I note that the Tenant did not provide any documentary evidence to support the asserted surgery or explain why no evidence had been filed. Moreover, the Tenant acknowledged that the arrears claimed in this application were never paid and her reason for withholding rent was her mistaken belief that order LTB-L-043498-25 relieved her of the obligation to pay rent after the Landlord had remedied the section 12 issue.
17. In the circumstances, and given the absence of persuasive evidence supporting the Tenant's request and the continuing non-payment of rent, I am not satisfied that delaying or denying eviction would be fair.

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:**
 - \$3,038.00 if the payment is made on or before April 18, 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 April 18, 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 April 18, 2026.**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$1,111.40. 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 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 \$26.30 per day for the use of the unit starting March 19, 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 April 18, 2026, the Tenant will start to owe interest. This will be simple interest calculated from April 19, 2026, at 4.00% annually on the balance outstanding.
8. If the unit is not vacated on or before April 18, 2026, then starting April 19, 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 April 19, 2026.

April 7, 2026

Date Issued

Kyle Anderson

Member, Landlord and Tenant Board

May 22, 2026

Date Amended

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 October 19, 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 to void the eviction order and continue the tenancy if the payment is made on or before April 18, 2026

Rent Owing To April 30, 2026	<u>\$4,5484.00</u> <u>\$4,484.00</u>
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$1,632.00
Total the Tenant must pay to continue the tenancy	\$3,038.00

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

Rent Owing To Hearing Date	\$3,357.40
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$1,632.00
Less the amount of the last month's rent deposit	- \$800.00
Total amount owing to the Landlord	\$1,111.40
Plus daily compensation owing for each day of occupation starting March 19, 2026	\$26.30 (per day)
**Ongoing daily compensation continues to accumulate until the total amount owing (excluding costs) is \$50,000.00.	