



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

File Number: LTB-L-033030-24

In the matter of: 392 CURRY AVE
WINDSOR ON N9B2B7

Between: Estate Of the late Michael Anthony Maio Landlord

And

Kari Codling Tenant

Estate Of the late Michael Anthony Maio (the 'Landlord') applied for an order to terminate the tenancy and evict Kari Codling and Kari Kayden (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on November 27, 2025, June 18, 2025, November 6, 2025, and June 1, 2026.

The Landlord's Agent, A. MaioEmery (AM), the Landlord's Legal Representative, M. Malik, the Tenant's Legal Representative, T. Jenkins, and the Tenant attended the hearing.

Kari Kayden is removed as a party to the application.

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. The Tenant was in possession of the rental unit on the date the application was filed.
3. The Tenant vacated the rental unit, but the parties disputed the date on which that occurred. Text messages and an email from the Tenant confirmed that she informed the Landlord that she intended to vacate the unit on May 1, 2024. However, the Tenant testified that she left early on April 27, 2024. The Landlord, who was not notified of the early departure, attended the unit to pick up the keys from the mailbox on May 2, 2024.
4. I am satisfied that the parties agreed to a termination date of May 1, 2024, and the tenancy terminated accordingly on that date whether or not the Tenant vacated a few days early.

5. The lawful rent was \$1,640.00.
6. The Tenant has not made any payments since the application was filed.
7. The Tenant agreed that the rent arrears owing to April 30, 2024, are \$3,230.00.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. The Tenant testified that she did not pay a last month's rent deposit.

Section 82 Issues

10. The Tenant raised two issues pursuant to section 82 of the *Residential Tenancies Act, 2006* ('the Act') which provides that the LTB shall permit the tenant to raise any issue that could be the subject of an application made by the tenant under this Act.

Toilet

11. The Tenant testified that at the commencement of the tenancy in February 2023, she observed that the water in the toilet tank was continuously running. The Landlord who was in and out of the unit conducting repairs at the time, could not resolve the issue. In February 2024, the Tenant brought it to the attention of the Landlord's Agent, AM, who hired a contractor to repair it. At that time, the contractor stated that there was no problem with the toilet, but on March 12, 2024, the Landlord replaced it. The Tenant stated that she incurred monthly costs of approximately \$300.00 due to the water leak.
12. AM testified that on May 9, 2023, the Landlord in a text message to the Tenant asked to inspect the toilet following a complaint from the Tenant. The Tenant raised the issue with AM only after AM asked for a unit inspection on January 16, 2024. Prior, on October 27, 2023, when AM asked if repairs were required in the unit, the Tenant stated that the toilet was functioning well. On January 25, 2024, the plumber attended the unit with AM and found no problem with the toilet, despite numerous flushes. The Tenant's boyfriend who was present during the visit, stated that the issue with the toilet occurs off and on.
13. Following another complaint from the Tenant on March 2, 2024, AM dispatched a plumber to the unit to change the toilet even though there was no problem with it.
14. Section 20 (1) of the Act provides that a Landlord is responsible for providing and maintaining a residential complex, including the rental units in it, in a good state of repair and fit for habitation and for complying with health, safety, housing and maintenance standards.
15. In *Onyskiw v. CJM Property Management Ltd.*, 2016 ONCA 477, the Court of Appeal held that the LTB should take a contextual approach and consider the entirety of the factual situation in determining whether there was a breach of the landlord's maintenance obligations, including whether the landlord responded to the maintenance issue reasonably in the circumstances. The court rejected the submission that a landlord is automatically in breach of its maintenance obligation as soon as an interruption in service occurs.

16. The evidence demonstrates that each time the Tenant made a complaint about the toilet, the Landlord was immediately responsive. Despite the Tenant's claims that the Landlord did not sufficiently address the issue, the text message from the Landlord on May 9, 2023, shows that he requested access to the unit to inspect the toilet. There is no evidence of a further complaint made by the Tenant to the Landlord after that time. In October 2023, when AM asked whether there were any disrepair issues in the unit, the Tenant specifically stated that the toilet was working properly. In January 2024, AM attended the unit with a plumber who found no problem with the toilet. By March 2, 2024, when the Tenant made another complaint, the Landlord had the toilet replaced within a few days.
17. The Tenant failed to demonstrate that the Landlord neglected their responsibility under the Act by failing to maintain the rental unit.

Foundation Leak in Basement

18. The Tenant testified that there was a crack in the foundation which the Landlord attempted to fix with mortar. AM was subsequently informed of the leak which had caused mold and interfered with the Tenant's son's enjoyment of his bedroom which was located in the basement. AM attended the unit for an inspection and sprayed bleach all over the black mold.
19. AM testified that following a message from the Tenant on January 24, 2024, about '*leaking from the foundation where the pipe comes in the house*', she attended the unit on January 25, 2024, with a plumber. They observed the walls were dirty, and that the Tenant placed a carpet over the drain. The carpet, which was also leaning on a pipe, was wet because of the moisture from the pipe. The plumber did not see a leak anywhere. On February 2, 2024, the Tenant sent another message saying she sealed the hole in the concrete. AM responded asking what hole the Tenant was talking about.
20. Based on all the evidence, the initial complaint about a crack in the basement in 2023, appeared to have been resolved by the Landlord as it was not the same complaint the Tenant subsequently made to AM. AM was informed about an alleged leak in the foundation in the area surrounding a pipe. During the inspection on January 25, 2024, the plumber was unable to verify that there was any leak in the basement and concluded that the moisture issue was caused by the Tenant's improperly placed carpet. In addition, I am not satisfied that the hole referenced in the Tenant's text message from February 2, 2024, was previously brought to the Landlord's attention.
21. The Tenant is not entitled to an abatement of rent.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated as of May 1, 2024.
2. The Tenant shall pay to the Landlord \$3,416.00. This amount includes rent arrears owing up to April 30, 2024, and the cost of filing the application.

3. If the Tenant does not pay the Landlord the full amount owing on or before July 5, 2026, the Tenant will start to owe interest. This will be simple interest calculated from July 6, 2026, at 7.00% annually on the balance outstanding.

June 5, 2026
Date Issued

Jitewa Edu
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.