



Order under Section 69 of the Residential Tenancies Act, 2006

Citation: Zemlja v Tate-Henry, 2026 ONLTB 46365

Date: June 11, 2026

File Number: LTB-L-006097-26-HR

In the matter of: 57 Gilgorm Road
Brampton, ON L6X4P5

Between: Jeanette Marie Zemlja and Mateya Zemlja Landlords

and

Bianca Tate-Henry and Michael Carter Tenants

HEARING ORDER

Jeanette Marie Zemlja and Mateya Zemlja (the 'Landlords') applied in a combined L1 and L2 application, seeking an order to terminate the tenancy and evict Bianca Tate-Henry and Michael Carter (the 'Tenants') because the Landlords claimed that the Tenants did not pay the rent that they owe, and that the Tenants have been persistently late in paying the rent. The Landlords also claimed compensation for each day the Tenants remained in the unit after the termination date provided in the N4 and N8 notices of termination.

This application was heard by videoconference on March 18 and May 13, 2026. The Landlords attended the hearings. The Tenant Bianca Tate-Henry attended the hearings on behalf of both Tenants (Michael Carter is Bianca Tate-Henry's ex-fiancee), along with her mother and support person Diane Tate-Henry.

DETERMINATIONS:

Applications Amended to Add Landlord Mateya Zemlja

1. Jeanette Marie Zemlja testified that Mateya is her sister and joint owner of the rental unit. Jeanette testified that she had forgotten to include her sister on the application but would like her sister added to the application. This request was not opposed by the Tenants and caused no prejudice to any party, so the amendment to the application was made during the hearings.

L1 Application Withdrawn

2. I raised a preliminary issue that I saw several concerns regarding fatal defects with respect to the N4 Notice of Termination (such as the fluctuating “rent charged” in the months of November versus December, 2025), and various service problems (such as there being no mailing address listed for the method of service in the Certificate of Service, no prior written consent from the Tenants allowing the Landlords to email any notices, and potential short service of the N4 Notice if mail was determined to be the only method of service allowable).
3. Upon being explained the potential defect with the N4 Notice and the potential invalidity of service of the N4 Notice, the Landlord Jeanette requested that the L1 application be withdrawn. She only wanted to pursue the L2 application. Since there was no prejudice from the request, I granted the Landlords’ request to withdraw the L1 application.

L2 Application – Persistent Late Payment of Rent Proven

4. For the reasons explained below, the Landlords proved on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation in the L2. However, based on all the circumstances, relief from eviction is granted and a conditional order is imposed.
5. Section 58(1)1 of the *Residential Tenancies Act, 2006* (the ‘Act’) allows a landlord to give a tenant a notice of termination of their tenancy on the ground that the tenant has persistently failed to pay rent on the date it becomes due and payable.
6. Unlike a L1 order for eviction due to rent arrears, which is voidable, an order for eviction based on a N8/L2 is not voidable by the tenant.
7. The Landlord Jeanette testified that she served the Tenants a N8 Notice due to a repeating and persistent pattern of late rent payments. The N8 Notice indicated a termination date of February 28, 2026. In the “details about the reasons for this notice”, the Landlords indicated to see an attachment, setting out the details of the allegation that “*The tenant has paid rent late persistently through their tenancy.*”
8. According to the chart/attachment served with the N8 Notice, the Landlords alleged that the Tenants failed to pay the full rent by the 1st day of each month, during May 1, 2025 through to January 1, 2026 (the past 9 consecutive months when the N8 was served).
9. The Landlord Jeanette testified that according to the Certificate of Service, on December 19, 2025 she served the N8 Notice on both the Tenants by mailing hard copies and also emailing it.
10. Since the Landlords failed to provide prior written consent from the Tenants that email can be used as a method of service for notices (as required by Rule 3 of the LTB’s *Rules of Procedure*), I could only consider the mailed service.
11. There were 2 Certificates of Service filed by the Landlords. The Landlord Jeannette advised that to prove her service of the N8 Notice, to use the certificate indicating service was done on December 19, 2025.

12. The Certificate of Service failed to indicate the *“last known address of the person(s) at:”*. The Landlord Jeanette testified that she mailed the hard copy of the N8 Notice to the Tenants by using the rental unit address. She testified that she did not know the address had to be written on the Certificate of Service. I was satisfied from the uncontested testimony of the Landlord Jeanette that the N8 Notice was mailed to the Tenants at the rental unit address on December 19, 2025.
13. According to Rule 3.9(a), mailed service is considered to be served on the fifth day after mailing; therefore, the N8 Notice was deemed served on December 24, 2025.
14. I am satisfied that the Landlords complied with section 44(2) of the Act and provided at least 60 days for the termination date in the N8 Notice, and that the provided termination date of February 28, 2026 was on the last day of a monthly rental period (since rent is due on the first of each month).
15. The Landlord Jeanette testified that from May 2025 to January 2026, according to the N8 attachment chart, the Tenants paid rent after the first and sometimes not at all (during a 9 month period).
16. The Landlord Jeanette testified that she suspects Bianca has moved out of the rental unit.
17. The Tenant Bianca refuted the Landlords’ claims and testified that Jeanette made it very difficult for her and her mother to pay the rent. She testified she is still living at the rental unit and that her mom is living with her. Bianca and her mother testified that Jeanette imposed arbitrary conditions such as refusing to accept any email transfers from Bianca’s mother, or forcing the Tenants or their family members to sign authorization forms. Bianca also testified she has a new job now so any past financial challenges are over since she has broken up with her ex-fiancee (joint tenant), he has moved out, and now her mother is helping financially and with childcare and other tasks.
18. The Landlord Jeanette admitted that there were times Diane tried to email her partial rent payments but upon legal advice she declined them or required authorization forms to be signed because she did not want to have any actions like accepting rent from Diane to be interpreted later as the Landlords acquiescing to Diane being a joint tenant.
19. The Tenant Bianca and her mother testified that they often shared financial responsibilities such as rent. Since their respective bank accounts would only allow a maximum email transfer limit of \$3,000.00 per day, they often had to wait until the next day to make any further e-transfers to each other or to Jeanette, if they had already used up their daily limit to make other payments such as bills. Bianca testified that for many of the 9 months indicated on the Landlords’ chart as being “late”, these would not have happened if Jeanette had not created delays and barriers to receiving or accepting the rent money.
20. Based on the testimony and evidence of all parties and witnesses, I am satisfied that the Landlord proved on a balance of probabilities that there has been a persistent pattern of rent being paid late. I do find that the Landlord Jeanette contributed to some delays by her own difficult behaviour (such as refusing to accept e-transfers unless they are from Bianca, creating a bank account that requires a password rather than allowing direct-deposits, and asking repeatedly for various authorization forms to be signed). However, even with the Landlord’s contributory behaviour, the testimony of Bianca and Diane did not convince me

that rent would have been paid in full and on time by the 1st of each month in any case during the periods indicated in the N8 Notice.

21. The Tenant Bianca admitted that she had been having some financial struggles in the past. She admitted to failing to organize her bills and other financial commitments so that every company or creditor is paid in full and on time throughout the month. I find that the Tenants knew or ought to have known the full rent was always due by the 1st of the month, even if other bills are also due that day. Bianca admitted that due to Jeannette's aggressive personality and stressful dealings, she tried to avoid dealing with Jeannette and she allowed her mother Diane to take a more proactive lead to handle any problems or issues that arose in the tenancy relationship.
22. Based on all the evidence, I am satisfied that the Landlords demonstrated there was a persistent pattern of several months (over half a year) where the Tenants failed to pay the full rent by the 1st of each month.

Relief from Eviction Granted – Conditional Order Imposed

23. The Landlords were successful at proving the Tenants persistently paid the rent late. The Landlords requested a standard eviction because they had been waiting a long time and were suffering financial hardship from the Tenants' late payment behaviour. The Landlord Jeanette advised that she is pregnant and the stress of dealing with consecutive months of late payment (and some months of no payment) has caused her a lot of hardship. She requested that the Board terminate the relationship as soon as possible so she and her sister can move on.
24. The Tenant Bianca advised that she intends to fix the behaviour now that her mother is living with her and Bianca has a new job. The Tenants requested that the tenancy be preserved and that a conditional order (pay on time for a year) be imposed instead.
25. The Landlord Jeanette admitted that for April the full \$2,800.00 was paid by the 2nd, but she did not receive the password until the 5th. For May, partial payments were made on the 4th and 10th, but that \$400.00 is still outstanding as of the adjourned hearing.
26. According to section 83 of the Act, when the Board hears any application seeking an order evicting a tenant, the Board must consider whether there are any circumstances that support granting relief from eviction. The Act is remedial legislation and the Courts have determined that evicting a tenant is a remedy of last resort. In the cases of *Sutherland v. lamontagne*, [2008] O.J. No. 5763 (Div. Ct.) and *Paderewski Society v. Ficyk*, [1998], the Divisional Court stated, "*To put somebody out of their home must, in my view, call for clear and compelling circumstances that it's no longer possible for the arrangement to continue.*"
27. I have considered all of the disclosed circumstances in accordance with section 83(2) of the Act and find that it would not be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
28. I acknowledge that eviction is a remedy of last resort. On a balance of probabilities, I am satisfied that the Tenants will reduce any unnecessary expenses and be more financially-organized to ensure the full rent is paid on time to preserve this tenancy for their family.

29. The Landlords contributed to some of the delays in receiving rent in the past. This was admittedly the first L2 application during the entire tenancy based on a claim of N8 persistent late rent payment. Also, the amount of “lateness” was not many days – most of the time it was only 1 day late or a few days late, and some of the delay could likely be partially explained by the Landlord’s contributory behaviour.
30. The Tenant Bianca has a new job now and her mother testified to being able to help with the rent, childcare, and other expenses since she has moved into the rental unit. Bianca is a mother to a young daughter who attends school in the neighbourhood. Bianca testified it would be difficult to pack up and move or find a new place to live given that her mother Diane is diabetic and she herself is a single mom. A move would also be disruptive on her daughter.
31. Based on all these circumstances, I am satisfied the Tenants should be given a chance to correct their late payment behaviour. Relief from eviction is granted and conditions to pay on time for a year will be imposed. Hopefully the parties work more collegiately together and improve their relationship in future.
32. The Landlords were successful proving persistent late payment of rent, so they are entitled to reimbursement of the application filing fee.

Unsolicited Post-Hearing Submissions Not Considered

33. After the May 13, 2026 hearing, I noticed in the LTB’s portal that the Landlords submitted various documents titled “*Consideration – Tenant lying during hearing*” on May 19, 2026 and “*June Late & Arrears*” on June 9, 2026. I did not request any post-hearing submissions from any party. It would not be procedurally fair to allow the Applicants/Landlords to make unsolicited post-hearing submissions; therefore, I did not consider any late filings as evidence.

IT IS ORDERD THAT:

34. The tenancy between the Landlords and the Tenants continues if the Tenants meet the conditions set out below.
35. The Tenants shall pay the monthly rent in full, on or before the first (1st) day of each month, for a 12 month period beginning on July 1, 2026, through to June 1, 2027.
36. If the Tenants fail to comply with the conditions set out in paragraph 34 above, the Landlords may apply under section 78 of the Act for an order terminating the tenancy and evicting the Tenants. The Landlords must make the application within 30 days of a breach of a condition. This application is made to the LTB without notice to the Tenants.
37. The Tenants shall pay to the Landlords \$186.00 for the cost of filing the application.
38. The total amount the Tenants must pay the Landlord is \$186.00.

39. If the Tenants do not pay the Landlords the full amount owing on or before June 22, 2026 (standard 11 days from the issuance date of this Order), the Tenants will start to owe interest. This will be simple interest calculated from June 23, 2026 at 4.00% annually on the balance outstanding.

June 11, 2026
Date Issued

Michelle Tan
Vice Chair, 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.