



Order under Section 69 Residential Tenancies Act, 2006

File Number: LTB-L-010471-26

In the matter of: 6596 MORNINGVIEW ST
ORLEANS ON K1C6N9

Between: Zixiong Wang Landlords
Jiexin Luo

And

Tracy Lay Somerville Tenants
Brandon Somerville

Zixiong Wang and Jiexin Luo (the 'Landlord') applied for an order to terminate the tenancy and evict Tracy Lay Somerville and Brandon Somerville (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on April 21, 2026.

The Landlord and the Tenant Tracy Lay Somerville attended the hearing.

When the capitalized word "Landlord" is used in this order, it refers to all persons or companies identified as a Landlord at the top of the order. When the capitalized word "Tenant" is used in this order, it refers to all persons identified as a Tenant at the top of the order.

Preliminary Issue:

1. The Tenant Tracy Lay Somerville (TS) raised the issue that she had declared bankruptcy February 4, 2026 and the other Tenant Brandon Somerville had declared bankruptcy April 14, 2026. Copies of the Consumer Proposals were submitted as evidence.

Determinations:

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 \$2,750.00. It is due on the 1st day of each month.

5. Based on the Monthly rent, the daily rent/compensation is \$90.41. This amount is calculated as follows: \$2,750.00 x 12, divided by 365 days.
6. The Tenant has paid \$7,955.00 to the Landlord since the application was filed.
7. The rent arrears owing to April 30, 2026, are \$5,945.00.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. The Landlord collected a rent deposit of \$2,750.00 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.
10. Interest on the rent deposit, in the amount of \$12.50 is owing to the Tenant for the period from February 2, 2026 to April 21, 2026.

Tenants' Bankruptcy:

Section 69.3 – Automatic Stay

11. Section 69.3 of the *Bankruptcy and Insolvency Act* (the 'BIA') creates an automatic stay that is intended to prevent creditors from taking steps to establish or recover a debt owed by the bankrupt outside of the process established by the BIA. [See, for example, *SWL-16920-SA (Re)*, 2008 *CanLII 82446 (ON LTB)*]. It says, in part:

69.3 (1) Subject to subsections (1.1) and (2) and sections 69.4 and 69.5, on the bankruptcy of any debtor, no creditor has any remedy against the debtor or the debtor's property, or shall commence or continue any action, execution or other proceedings, for the recovery of a claim provable in bankruptcy.

(1.1) Subsection (1) ceases to apply in respect of a creditor on the day on which the trustee is discharged.

12. Section 69.3 applies to proceedings for the recovery of a claim provable in the tenant's bankruptcy. The BIA defines a "claim provable" to be '[a]ll debts and liabilities, present or future, to which the bankrupt is subject on the day on which the bankrupt becomes bankrupt or to which the bankrupt may become subject before the bankrupt's discharge by reason of any obligation incurred before the day on which the bankrupt becomes bankrupt'. [BIA, s 121(1)] Generally, rent or other amounts owed by a bankrupt tenant when the bankruptcy started are 'provable' and any application that includes the recovery of such amounts is stayed.
13. As was noted by the Supreme Court of *Canada in R v. Fitzgibbon* [1990 *CanLII 102 (SCC)*]:

... [section 69.3] prohibits the granting of any 'remedy against' or 'recovery of' any claim against the debtor or his property without leave of the court in bankruptcy....The object of the section is to avoid a multiplicity of proceedings and to prevent any single unsecured creditor from obtaining a priority over any other unsecured creditors by bringing an action

and executing a judgment against the debtor. This is accomplished by providing that no remedy or action may be taken against a bankrupt without leave of the court in bankruptcy, and then only upon such terms as that court may impose. (citations omitted)

14. The BIA 69.3 stay is effective from when a bankruptcy takes place—essentially when a bankruptcy file number is assigned—and ends when the trustee appointed to administer the bankruptcy is discharged. [BIA, 69.3(1.1)]
15. It is possible for a landlord to obtain permission from the Superior Court exercising jurisdiction under the BIA to commence or continue an L1 application. [BIA, s. 69.4]. The LTB does not, however, have jurisdiction to allow an application under the RTA against a bankrupt tenant to proceed.

Section 84.2 – Restriction on Eviction

16. Once a tenant becomes bankrupt, the ability of a landlord or the LTB to terminate the tenancy based on the fact the tenant owes rent is restricted by section 84.2 of the BIA, which says, in part:

***84.2 (1)** No person may terminate or amend — or claim an accelerated payment or forfeiture of the term under — any agreement, including a security agreement, with a bankrupt individual by reason only of the individual’s bankruptcy or insolvency.*

(2) If the agreement referred to in subsection (1) is a lease, the lessor may not terminate or amend, or claim an accelerated payment or forfeiture of the term under, the lease by reason only of the bankruptcy or insolvency or of the fact that the bankrupt has not paid rent in respect of any period before the time of the bankruptcy.

17. The effect of section 84.2 is to prevent the LTB from exercising its jurisdiction under section 69 of the RTA to terminate a tenancy where the basis for the application is the failure of a bankrupt tenant to pay rent owed at the time the tenant became bankrupt, an L1 application based on a notice of termination delivered under section 59 of the RTA. The Superior Court has jurisdiction to permit a tenancy to permit an application impacted by section 84.2 to proceed. [BIA, s. 84.2(6)]. The LTB does not.

Joint Tenancies:

18. In the application before me, there is a joint tenancy between the Tenants Tracy Lay Somerville and Brandon Somerville with the Landlord.
19. The application of sections 69.3 and 84.2 of the BIA is relatively straightforward, where there is a single tenant: (a) an application to recover rent or other amounts that were owed when the bankruptcy started is stayed; (b) the LTB can make an order that the bankrupt tenant pay rent or other amounts that became owed after the bankruptcy started; and (c) the LTB cannot terminate the tenancy and evict a bankrupt tenant based on an L1 application that is based on rent owed when the bankruptcy started, even if rent became owed after the bankruptcy started. However, the situation becomes somewhat more complicated when there is a joint tenancy, and not all of the Tenants are bankrupt.

20. A joint tenancy arises when two or more tenants together enter into a tenancy agreement and agree to pay the landlord rent in return for the right to occupy a rental unit, and at the same time, each of them individually makes the same promise to pay rent to the landlord. [See *Soucy v Milton Heights Inc*, [2015 SKQB 126 \(CanLII\)](#)]. In a joint tenancy, the tenants are not responsible for separate shares of the rent. They are jointly and severally liable to the landlord for the entire rent. This means that if the rent is not paid, the landlord may pursue any of the joint tenants for the full amount owed.
21. Section 84.2 of the BIA says that the Board cannot make an order under section 69 terminating the tenancy and evicting the tenant based only on the fact that rent was owing when the bankruptcy started [OR on the Date of Bankruptcy].
22. Based on the evidence before me and the evidence of the Tenants' bankruptcy, I cannot order eviction. The Landlord elected to amend the L1 application to an L9 application for arrears only.

It is ordered that:

1. The Tenant Tracy Lay Somerville shall pay the Landlord \$650.00. This amount includes the balance of arrears from February 5, 2026, to April 14, 2026.
2. The Tenants Tracy Lay Somerville and Brandon Somerville shall pay the Landlord \$818.87 which is the arrears from April 15, 2026 to April 21, 2026 and the cost of filing the application.
3. If the Tenants do not pay the Landlord the full amount owing on or before June 26, 2026, the Tenant will start to owe interest. This will be simple interest calculated from June 27, 2026 at 4.00% annually on the balance outstanding.

June 15, 2026
Date Issued

Brenda Mercer
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.