



Order under Section 126 Residential Tenancies Act, 2006

Citation: Kalyn v Dodge, 2026 ONLTB 46910

Date: 2026-06-15

File Number: LTB-L-078943-23

In the matter of: 44 Arcadian Circle, Etobicoke, Ontario, M8W 2Y9

Between: Jerry Kalyn Landlord
Mary Dragan

and

Refer to attached Schedule 2 Tenants

Jerry Kalyn and Mary Dragan (the 'Landlord') applied for an order permitting the rent charged to be increased by more than the guideline for one or more of the rental units in the residential complex.

A Case Management Hearing was held on October 15, 2025. The Parties were unable to resolve the issues and this application was directed to a written merits hearing.

This application was resolved by a written hearing. No submissions were received from the Tenants.

Preliminary Matters

1. I have accepted the Landlord's amended application filed with the Board on September 9, 2025.

It is determined that:

2. I find that the Landlord has justified a rent increase above the guideline because the Landlord incurred an eligible capital expenditure for the residential complex or one or more of the rental units in it.

The Definition of Capital Expenditure

3. The Landlord must lead evidence to establish that each of the capital expenditures claimed meets the definition of "capital expenditure" as set out in s. 18(1) of the regulation. It says:

"capital expenditure" means an expenditure for an extraordinary or significant renovation, repair, replacement or new addition, the expected benefit of which extends for at least five years including,

- a. an expenditure with respect to a leased asset if the lease qualifies as determined under subsection (2), and
- b. an expenditure that the landlord is required to pay on work undertaken by a municipality, local board or public utility, other than work undertaken because of the landlord's failure to do it,

but does not include,

- c. routine or ordinary work undertaken on a regular basis or undertaken to maintain a capital asset in its operating state, such as cleaning and janitorial services, elevator servicing, general building maintenance, grounds-keeping and appliance repairs, or
- d. work that is substantially cosmetic in nature or is designed to enhance the level of prestige or luxury offered by a unit or residential complex;

"Eligible" Capital Expenditures

- 4. In addition to meeting the definition of capital expenditure, each of the Landlord's claimed items must be an "eligible" capital expenditure.
- 5. Subsections 126(7) and (8) of the Act say:

(7) Subject to subsections (8) and (9) and except under the prescribed circumstances, a capital expenditure is an eligible capital expenditure for the purposes of this section if,

- a. it is necessary to protect or restore the physical integrity of the residential complex or part of it;
- b. it is necessary to comply with subsection 20 (1) or clauses 161 (a) to (e);
- c. it is necessary to maintain the provision of a plumbing, heating, mechanical, electrical, ventilation or air conditioning system;
- d. it provides access for persons with disabilities;
- e. it promotes energy or water conservation; or
- f. it maintains or improves the security of the residential complex or part of it.

(8) A capital expenditure to replace a system or thing is not an eligible capital expenditure for the purposes of this section if the system or thing that was replaced did not require major repair or replacement, unless the replacement of the system or thing promotes,

- a. access for persons with disabilities;

- b. energy or water conservation; or
- c. security of the residential complex or part of it.

The 18-Month Window

- 6. Pursuant to s. 26(2) of the regulation a rent increase shall not be ordered in respect of a capital expenditure unless the work was completed during the 18-month period ending 90 days before the effective date of the first intended rent increase referred to in the application. In this case the 18-month window is from April 3, 2022 to October 3, 2023.
- 7. The expenditure must also be "incurred" which essentially means the work must have been paid for prior to the application being filed. This is not an issue with respect to any of the items claimed in this application.

The Useful Life

- 8. If the expenditure meets the requirements set out above, then the Board must establish the useful life of the work done in order to calculate the allowable increase.
- 9. Section 27 of the regulation says:
 - 27. (1) The useful life of work done or a thing purchased shall be determined from the Schedule subject to the following rules:
 - 1. Where the useful life set out in Column 3 of the Tables in the Schedule is less than 10 years, the useful life of work done or a thing purchased shall be deemed to be 10 years.
 - 2. If, when a thing is purchased, it has previously been used, the useful life of the thing shall be determined taking into account the length of time of that previous use.
 - 3. If the work done or thing purchased does not appear in the Schedule, the useful life of the work or thing shall be determined with reference to items with similar characteristics that do appear in the Schedule.
 - 4. Despite paragraphs 2 and 3, for the purposes of making a finding under this section, the useful life of work done or a thing purchased shall not be determined to be less than 10 years.

(2) If the useful life of work done or a thing purchased cannot be determined under subsection (1) because the work or thing does not appear in the Schedule and no item with similar characteristics appears in the Schedule, the useful life of the work or thing shall be what is generally accepted as the useful life of such

work or thing but in no case shall the useful life be determined to be less than 10 years.

Capital Expenditure

10. The Landlord justified a rent increase above the guideline because of capital expenditures.
11. The Landlord's evidence justifies a rent increase above the guideline of **6.57%**, because of capital expenditures. However, pursuant to subsection 126(11) of the Act, the maximum permitted rent increase above the guideline because of capital expenditures in any year is 3.00%. As a result, the rent increase justified in this Application may be taken as follows: 3.00% in the first year, 3.00% in the second year, and 0.57% in the third year. These increases are in addition to the annual guideline rent increase.
12. The Landlord's application is for the following capital expenditure:
 - a. Roof Replacement.

Capital Expenditure – Roof Replacement

13. The Landlord submits that the work was necessary as the roof which was installed in 1997 was no longer weathertight and had reached the end of its useful life.
14. The scope of the work as set out in the invoice from Triumph Roofing Services Ltd. included:
 - a. Removal and disposal of the old roofing system including roof drains, vent stacks and B-vent flashing.
 - b. Replace new wood blocking as required.
 - c. Install self adhesive, SoprapaporR vapour barrier to the wood deck.
 - d. Supply and install 1.5" PolyISO insulation, mechanically fastened.
 - e. Supply and install new fibre overlay board, adhered in hot asphalt.
 - f. Supply and install 3"x 3" fibre "can't strip at all vertical up stand".
 - g. Supply and install Soprema Base Sheet (180 Gr), adhered in hot asphalt.
 - h. Seal all the laps and upturns with heat-weld torch.
 - i. Supply and install 250 g/m2 standard colour cap shield on field, adhered in hot asphalt.
 - j. Base Sheet (180 gr) flashing on perimeter to be installed with heat-weld torch.
 - k. Supply and install new 26Ga pre-finished Dofasco 8000 series metal flashing.
 - l. Complete cleanup and remove all debris from site.

15. The Landlord submits that the work was “eligible” because it was necessary to protect or restore the physical integrity of the residential complex.
16. I am satisfied the roof replacement project meets the definition of capital expenditure contained in s.18(1) of the O. Reg 516/06 as it was a significant replacement, the expected benefit of which extends for at least five years. It also meets the test for eligibility under subsection 126(7)(a) of the Act because it was necessary to protect or restore the physical integrity of the residential complex or part of it.
17. As set out above, if the expenditure meets the requirements set out in the Act and O. Reg. 516/06, then the Board must establish the useful life of the work done in order to calculate the allowable increase. Based on the “Useful Life of Work Done or Things Purchased” (the ‘Schedule’) found at the end of O. Reg. 516/06: Roof replacement (modified bitumen) should be classed at 15 years per Table 6 – Item 12 – Built Up Roof.

Allocation of Costs

18. The Landlord advises that they reside in Unit 12 of the complex. For the purposes of the Act, a landlord occupied unit is not considered a *rental* unit but a commercial or non-residential unit within the complex.
19. Subsection 24(2) of O. Reg. 516/06 requires the Board to ascertain whether or not the other part of the project benefitted from the capital expenditure and if it did, allocate the cost of the expenditure to the commercial and residential components. The provision reads as follows:

If a residential complex forms part of a larger project, the operating cost for the project and the amount of capital expenditure which benefit both the residential complex and the other parts of the project shall be allocated between the residential complex and the other parts of the project in accordance with one or more of the of the following factors:

 1. The area of each part of the project.
 2. The market value of each part of the project.
 3. The revenue generated by each part of the project.
20. The Landlord submits that the allocation of this capital expenditure to his unit be based on the 10.00% “Personal Use for Building Expenses” they have declare on their CRA Tax Returns. Given that the Landlord does not pay rent and it would be too difficult to ascertain the market value for solely the Landlord’s unit, I find the Landlord’s proposed allocation method to be appropriate in the circumstances. Accordingly, 10.00% of the total costs of the roof replacement will be applied to the Landlords’ unit and 90.00% to the Tenants’ rental units in the complex.

21. The useful life of the capital expenditure is 15 years.

General

22. The Certificate of Service filed by the Landlord on January 13, 2026 indicates that some rental units listed in the application were not served with the application and notice of hearing. The Board shall therefore amend the application by removing these rental units. As a result, this order for a rent increase above the guideline under section 126 of the Act does not apply to the following units: 3, 5, and 8.

23. The first effective date of the rent increase above the guideline is January 1, 2024.

It is ordered that:

1. The Landlord may increase the rents charged by 6.57% for the units set out in Schedule 1.
2. The percentage increase set out in paragraph 1 is to be taken as follows:
 - a. The Landlord may increase the rents charged by 3.00% within the time period of January 1, 2024 to December 31, 2024; and
 - b. The Landlord may increase the rents charged by 3.00% within the time period of January 1, 2025 to December 31, 2025; and
 - c. The Landlord may increase the rents charged by 0.57% within the time period of January 1, 2026 to December 31, 2026.
3. The percentage increase set out in paragraph 1 may be taken in addition to the annual guideline in effect on the increase date for the unit.
4. The Landlord or the Tenants shall pay to the other any sum of money that is owed as a result of this order within 90 days of the date of this order.

June 15, 2026
Date Issued

Guy Savoie
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.

Important Notes:

1. The Landlord may increase the rent charged by the ordered increase within the time period specified if at least 12 months have passed since the last rent increase or since the Tenant moved in, and if the Landlord has given the Tenant at least 90 days proper Notice of Rent Increase. Any part of the ordered increase that is not taken within the time period specified cannot be added to subsequent rent increases in subsequent time periods.
2. If the Landlord has given a Notice of Rent Increase for a rent increase that is less than the ordered increase, the Landlord may only take the rent increase set out in the Notice.
3. If the Tenant's rent is increased pursuant to the percentage increase ordered for capital expenditures and the same Tenant remains in the unit after the expiration of the weighted useful life for capital expenditures, then the rent will be reduced. Refer to Schedule 3 for information about the date and amount of the rent reduction.
4. The annual guideline for 2024 is 2.50%, for 2025 is 2.50%, and for 2026 is 2.10%.

Schedule 1 - Units affected by this Order:

44 Arcadian Circle, Etobicoke, Ontario, M8W 2Y9

1
2
4
6
7
10
11
13

Schedule 2 - Tenants who are Affected by this Order:

Cloutier, Mark
Dodge, David
Goodyear, Robin
Kalyn, Adrian
Kalyn, Christopher
Lamperd, Matthew
Miszczyk, Mike
Vardy, Jakob

Schedule 3 - Rent Reduction related to Capital Expenditures

A. Date of Rent Reduction

If the Tenant's rent is increased based on capital expenditures during the period of January 1, 2024 to December 31, 2024, then:

The date of the rent reduction will be the day before:

- the date of the Tenant's first rent increase under this order, plus
- the number of years for the weighted useful life for capital expenditures for the unit (set out in the order).

Example:

If the Tenant's rent was increased on June 1, 2021 and the weighted useful life for capital expenditures is 10 years, then the rent will be reduced on May 31, 2031.

If the Tenant's rent was *not* increased based on capital expenditures during the period of January 1, 2024 to December 31, 2024, but was increased during the later periods set out in the order, then:

The date of the rent reduction will be the day before:

- the First Effective Date of Rent Increase in this order, plus
- the number of years for the weighted useful life for capital expenditures for the unit (set out in the order).

Example:

If the first effective date of increase in this order is April 1, 2021 and the weighted useful life for capital expenditures is 10 years, then the rent will be reduced on March 31, 2031.

B. Amount of Rent Reduction

If the Tenant's rent is increased by the total percentage increase set out in this order then:

The rent must be reduced by the total percentage increase set out in this order for capital expenditures.

If the Tenant's rent is *not* increased by the total percentage increase set out in this order then:

The rent must be reduced by an amount determined in accordance with the prescribed rules which may be equal to or less than the total percentage increase set out in this order for capital expenditures.