



Order under Section 69 Residential Tenancies Act, 2006

Citation: Spalding v Malette, 2026 ONLTB 47923

Date: 2026-06-19

File Number: LTB-L-087915-25

LTB-L-096899-25

In the matter of: 423 THIRD ST E
CORNWALL ON K6H2E6

Between: Penelope Spalding Landlord

And

Melanie Malette Tenant

Penelope Spalding (the 'Landlord') applied for an order to terminate the tenancy and evict Melanie Malette (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes (**L1 application**).

The Landlord also applied for an order to terminate the tenancy and evict the Tenant because the Landlord has entered into an agreement of purchase and sale of the rental unit and the purchaser in good faith requires possession of the rental unit for the purpose of residential occupation. The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date (**L2 application**).

These applications were heard by videoconference on May 11, 2025 and June 5, 2026.

The Landlord, the Landlord's witness, Kristin Chaisson, the Landlord's representative, Marie Beaupre, and the Tenant attended the hearing on May 11, 2025.

The Landlord's representative, Marie Beaupre, and the Tenant attended the hearing on June 5, 2026.

It should be noted that just before the L1 hearing was concluded on May 11, 2025, the Tenant disconnected from the hearing and did not reconnect. As such, the L2 application proceeded with only the Landlord's evidence. In fairness to the Tenant, the L1 application was reconvened on June 5, 2026, to allow the parties to provide submissions only with respect to a possible waiver of rent arrears.

Determinations:

L1 Application

Preliminary Issues

Application is amended

1. The Landlord requested that the application be amended to include a last month's rent deposit of \$1,750.00 that was collected on June 1, 2024. While the Tenant did not oppose the amendment, she stated that she had paid two last month's rent deposits, together with an additional \$500.00 when she moved into the unit.
2. It is undisputed that the tenancy began on June 1, 2024, that the Tenant moved into the unit mid-May 2024 and that she paid a pro-rated amount of \$500.00 for rent in May 2024.
3. The Landlord stated the Tenant then paid \$3,500.00 on June 1, 2024, representing rent for June 2024 as well as the last month's rent deposit.
4. At the hearing on May 11, 2025, the Tenant stated she paid \$1,750.00 twice at the beginning of the tenancy. She said this represented two last month's rent deposits. At the June 5, 2026 hearing, however, the Tenant stated she paid two month's rent deposit plus rent for June 2024 (i.e. \$1,750.00 x 3). Given that the Tenant did not produce any documentary evidence, such a copy of a cheque, a bank draft, an e-transfer confirmation or a receipt, to corroborate her testimony, as well as the contradictions between her May 11, 2026 and June 5, 2026 testimony, I prefer the Landlord's testimony. I am satisfied that on June 1, 2024, the Tenant paid \$1,750 for rent for June 2024 and \$1,750 for the last month's rent deposit.
5. As such, I exercised my discretion to amend the application to include a last month's rent deposit of \$1,750.00 collected by the Landlord on June 1, 2024.

Rent to own agreement

6. It is undisputed that there is no written tenancy agreement.
7. The Tenant disputes that she paid rent to the Landlord. She stated that the parties entered into a rent-to-own agreement and that she was paying down a loan, not rent. The Landlord denies that there was a rent-to-own agreement.
8. The Tenant produced a copy of an agreement which she stated she received from the Landlord [Doc 7716599]. The agreement is not signed by either party. The Landlord denies that she prepared the agreement. I am not persuaded that the agreement produced by the Tenant is a rent- to-own agreement. The agreement is not signed and there is nothing to identify who drafted it.
9. A rent to own agreement is essentially two agreements. One is a tenancy agreement that is subject to the Act. The parties agree the tenant will pay rent to the landlord in exchange for the right to occupy the rental unit. The second agreement that provides that the Tenant has the right to purchase the property at some future date. The tenancy agreement and the

landlord and tenant relationship continues until the property in fact is sold and title passes to the tenant. At that point, the tenant ceases to be a tenant and becomes an owner.

10. In this case, there is no dispute that as of the hearing date, the Tenant was not an owner of the residential premises. There is no evidence that title of the property was transferred to the Tenant.
11. The Board has jurisdiction with respect to disputes that arise over the tenancy agreement, but no jurisdiction with respect to disputes that arise under the purchase and sale agreement. Here, there appears to be a dispute between the parties with respect to an alleged rent-to-own agreement but that is not relevant to the issues before the Board. That matter must be pursued at the Superior Court. What is relevant and before me is the application for arrears of rent for the period between May 2025 and June 2026.

What is the monthly rent?

12. The parties do not dispute that the Tenant paid \$1,750.00 per month to the Landlord. The Tenant's position, however, is that only \$1,200.00 of that amount was rent, since \$500.00 was applied to taxes, utilities, etc. as per the agreement produced by the Tenant [Doc 7716599].
13. The Landlord's position is that the rent is \$1,750.00.
14. Given that the agreement is unsigned and its authorship and authenticity cannot be verified, it bears no weight in my determinations. Based on the evidence before me, I find that the monthly rent is \$1,750.00. I say this because the Tenant admitted she paid that amount to the Landlord each month and that she paid that amount as a last month's rent deposit on June 1, 2024.

L1 application

15. 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.
16. As of the hearing date, the Tenant was still in possession of the rental unit.
17. The lawful rent is \$1,750.00. It is due on the 1st day of each month.
18. Based on the Monthly rent, the daily rent/compensation is \$57.53. This amount is calculated as follows: \$1,750.00 x 12, divided by 365 days.
19. The Tenant has paid \$5,000.00 to the Landlord since the application was filed.
20. The rent arrears owing to June 30, 2026 are \$17,750.00.
21. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

22. The Landlord collected a rent deposit of \$1,750.00 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.
23. Interest on the rent deposit, in the amount of \$81.00 is owing to the Tenant for the period from June 1, 2024 to June 5, 2026.

L2 Application

24. As explained below, the Landlord has proven, on a balance of probabilities, the grounds for termination of the tenancy. Therefore, the tenancy between the Landlord and the Tenant is terminated.
25. The Tenant was in possession of the rental unit on the date the application was filed.
26. The rental unit is a single family detached home.
27. The Landlord served a previous N12 notices on the Tenant on July 21, 2025 indicating that the purchaser intended to move into the unit. Although the Landlords proceeded to file an L2 application based on the July 21, 2025 N12 notice, that application was subsequently withdrawn because the purchaser backed out of the sale.
28. On November 17, 2025, the Landlord gave the Tenant a second N12 notice of termination with the termination date of January 31, 2026. The notice was again given on behalf of the purchaser who claims that they require vacant possession of the rental unit for the purpose of their own residential occupation.
29. The Landlord met the requirements under section 72(1) of the *Residential Tenancies Act, 2006* (the 'Act'), by filing with the Board a sworn affidavit signed by the Purchaser stating that she requires the rental unit for her own personal use, in good faith, for a period of no less than one year.
30. I am satisfied that the Landlord compensated the Tenant the amount equal to one month's rent by January 31, 2026 as required by s. 49.1 and 55.1 of the Act which requires that the Tenant be compensated an amount equal to one month's' rent by the termination date of January 31, 2026. I say this because the Landlord produced a letter from her representative to the Tenant dated November 17, 2025 [Doc 7325141] which confirms the Tenant was advised that compensation for the first N12 notice was being carried over to the second N12 notice.
31. The Landlord submits that the L2 application has been brought in good faith, that there is a genuine intention for the purchaser to live in the rental unit and requests that the tenancy be terminated on June 30, 2026.
32. The purchaser, Kristin Chaisson, testified that she currently lives in a rental apartment and intends to live in the unit with her nine-year old child. She stated that the area where the unit is located is better than the area she currently lives in and is close to shops and her child's school (i.e. they will be able to walk to school rather than take the bus). The parties produced a copy of the agreement of purchase and sale [Doc 680665] as confirmation of the sale.

Relief from eviction

33. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including whether the Landlord attempted to negotiate a repayment agreement with the Tenant, and find that it would not be unfair to postpone the eviction until June 30, 2026 pursuant to subsection 83(1)(b) of the Act. I say this for the following reasons.
34. The Landlord stated that the condominium where the Landlord resides recently levied a special assessment of \$55,000.00 to all owners. Given that the Landlord is 73 years old and retired, she wants to sell the unit in order to pay the special assessment. The Landlord stated that at the January 8, 2026 hearing, the Tenant indicated that she was prepared to move out of the rental unit on June 30, 2026 if the Landlord waived the arrears. The Landlord was still prepared to waive the rent arrears owed to May 31, 2026 (i.e. \$16,000.00).
35. While the Tenant still maintained that she and the Landlord had a rent-to-own agreement, she admitted that there had been no issues with the Landlord until the Landlord asked her to leave. Her source of income is ODSP and she has a teenage son. Her car recently broke down and she has had to pay legal fees. As such, she requested more time (i.e. to July 31, 2026) to find a new place to live.
36. The Landlord was not agreeable to delaying termination of the tenancy to July 31, 2026, stating that the closing date for the sale had already been extended and was now July 2, 2026.
37. Given that the Tenant was served with the first N12 notice on July 21, 2025, she has had almost a year to find a new place to live. She is also receiving substantial relief from the Landlord by waiving of \$16,000.00 in rent. The Landlord already had one purchaser back out of a sale of the property and wants this sale to close so that she can pay a special assessment of \$55,000.00. Given the circumstances, I do not find a further extension of time is warranted.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the unit on or before June 30, 2026.
2. **The Tenant may void the voidable portion of order by paying to the Landlord or to the LTB in trust:**
 - \$1,936.00 if the payment is made on or before June 30, 2026. See Schedule 1 for the calculation of the amount owing.
3. The Tenant may also make a motion at the LTB to void the voidable portion of 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 June 30, 2026 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.

4. **Even if the Tenant pays the amount required to void the voidable portion of this order, the Tenant must move out of the rental unit on or before June 30, 2026 because the Landlord requires vacant possession for the purchaser's own residential occupation.**
5. As of the date of the hearing, the amount of the rent deposit and interest the Landlord owes on the rent deposit exceeds the arrears of rent, compensation and the cost of filing the application the Landlord is entitled to by \$1,357.35. See Schedule 1 for the calculation of the amount owing. However, the Landlord is authorized to deduct from the amount owing to the Tenant \$57.53 per day for compensation for the use of the unit starting June 6, 2026 until the date the Tenant moves out of the unit.
6. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.
7. If the unit is not vacated on or before June 30, 2026, then starting July 1, 2026, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
8. 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 July 1, 2026.

June 19, 2026
Date Issued

Karen Gonçalves
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.

In accordance with section 81 of the Act, the part of this order relating to the eviction expires on January 1, 2027 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 June 30, 2026

Rent Owing To June 30, 2026	\$22,750.00
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$5,000.00
Less rent arrears waived to May 31, 2026	- \$16,000.00
Total the Tenant must pay to continue the tenancy	\$1,936.00

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

Rent Owing To Hearing Date	\$21,287.65
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$5,000.00
Less the amount of the last month's rent deposit	- \$1,750.00
Less the amount of the interest on the last month's rent deposit	- \$81.00
Less rent arrears waived to May 31, 2026	- \$16,000.00
Total amount owing to the Landlord	\$(1,357.35)
Plus daily compensation owing for each day of occupation starting June 6, 2026	\$57.53 (per day)
**Ongoing daily compensation continues to accumulate until the total amount owing (excluding costs) is \$50,000.00.	