



MAY 29, 2025

Landlord and Tenant Board

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

Citation: Laferriere v Mitchell, 2025 ONLTB 40984

Date: 2025-05-29

File Number: LTB-L-104878-24

In the matter of: C, 55 LEFEBVRE AVE
CORNWALL ON K6H5G3

Between: Sarah Laferriere Landlords
Ghyslain Laferriere

And

Amy Mitchell Tenant

Sarah Laferriere and Ghyslain Laferriere (the 'Landlords') applied for an order to terminate the tenancy and evict Amy Mitchell (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on March 26, 2025.

The Landlord, Sarah Laferriere, and the Tenant attended the hearing. In this order, the singular "Landlord" refers to Sarah Laferriere, and the plural refers to both Landlords.

The Tenant spoke to Tenant Duty Counsel prior to the hearing.

DETERMINATIONS:

1. The Landlords 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. As of the hearing date, the Tenant was still in possession of the rental unit.
3. The lawful rent is \$1,169.56. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$38.45. This amount is calculated as follows: \$1,169.56 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The parties agree that rent arrears owing to March 31, 2025 are \$4,678.24.
7. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

8. The Landlords collected a rent deposit of \$1,200.00 from the Tenant and this deposit is still being held by the Landlords. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.
9. Interest on the rent deposit, in the amount of \$91.33 is owing to the Tenant for the period from September 2, 2020, to March 26, 2025.
10. The only real disputes between the parties on this application concern the Tenant's request for relief in the form of delay and the Tenant's section 82 claims.

THE TENANT'S SECTION 82 CLAIM:

11. At the hearing, the Tenant raised various issues pursuant to s. 82 of the *Residential Tenancies Act*, 2006 (the 'Act'), which states:

(1) At a hearing of an application by a landlord under section 69 for an order terminating a tenancy and evicting a tenant based on a notice of termination under section 59, the Board shall permit the tenant to raise any issue that could be the subject of an application made by the tenant under this Act if the tenant,

- (a) complies with the requirements set out in subsection (2); or
- (b) provides an explanation satisfactory to the Board explaining why the tenant could not comply with the requirements set out in subsection.

Requirements to be met by tenant

(2) The requirements referred to in subsection (1) are the following:

1. The tenant shall give advance notice to the landlord of the tenant's intent to raise the issue at the hearing.
2. The notice shall be given within the time set out in the Rules.
3. The notice shall be given in writing and shall comply with the Rules. 2020, c. 16, Sched. 4, s. 16.

Orders

(3) If a tenant raises an issue under subsection (1), the Board may make any order in respect of the issue that it could have made had the tenant made an application under this Act.

12. The claims are summarized as follows:

1. Defective hot water tank;
2. Mould under the kitchen sink;
3. Mould in the basement;
4. Leaking shower pipe;
5. Insufficient heating;
6. Door frame falling apart;
7. Rats underneath the porch and a deceased pigeon in the front porch roof; and

8. No screens on all upstairs windows and no locks on window living room.
13. The Landlords sent the Tenant the N4 Notice of Termination for failing to pay rent on December 4, 2024. On December 5, 2024, the Tenant send an email to the Landlords describing most of the s.82 claims as listed above.

Defective Hot Water Tank

14. The Tenant advised the Landlords via email on December 5, 2024, that the hot water wasn't hot enough to run a bath and to take a shower. The Landlords responded the same day to confirm whether they could send a service request immediately to check the hot water tank. The Tenant responded she would only be agreeable to a written notice of entry delivered to the unit and would not accept email as a written method of notice. The Landlords' indicated to the Tenant that email was an accepted method of notification for any notices or documents in accordance with their lease agreement. The Landlords then indicated they could attend on December 9, 2024, but the Tenant did not respond to the email message. The Landlords tried to make arrangement to attend for the 23rd of December 2024, however the Tenant again requested a delivered written notice for entry. The lease agreement was uploaded into evidence. The Tenant disputed that on the lease she agreed to service of documents by email because she felt it was not her signature on the lease.
15. The Landlords attended the residence on January 7, 2025, to address the hot water issue. The Landlords own and operate a heating a cooling company and part of their business is dealing with hot water tanks. The Landlord ran the tub $\frac{3}{4}$ full at a constant recorded temperature of 118.9 degrees Fahrenheit. The Landlord uploaded into evidence a picture of the thermometer while running the tub showing 118.9 degrees Fahrenheit. The Landlord's position is that there is nothing wrong with the hot water tank. They investigated it, and determined it was in proper working order. The Tenant did not refute any of the evidence the Landlord presented. The Tenant did not make any further claims of the hot water tank not working properly after the Landlord attended the residence to address the issue.
16. Under section 11 of O. Reg. 517/06 Maintenance Standards, of the Act, the ordinary temperature of the hot water provided must be at least 43 degrees Celsius. In this case, the Landlord showed the thermometer at 118.9 degrees Fahrenheit, which is equivalent to approximately 48 degrees Celsius, which meets the criteria of s. 11 of O. Reg. 517/06.
17. I find that, on balance of probabilities, the Landlords responded and addressed this issue in a timely fashion and deemed that the hot water tank was in proper working order. I find the Landlord's evidence credible, as they do this for a living. Therefore, the Tenant's claim with respect to a defective water tank must be dismissed.

Mould in the Kitchen Sink

18. The Tenant indicated to the Landlords in an email on December 5, 2024, there was mould under the kitchen sink. The Landlords provided proper written notice to the Tenant they would be attending on February 3, 2025, to address this issue, along with other issues the Tenant raised. When the Landlords attended the residence, the Tenant's partner refused

them entry. Police were called, and a secondary date of entry was agreed upon with the police on February 7, 2025.

19. On February 7, 2025, the Landlords attended the residence and inspected the sink. The Landlord agrees there was some sort of moisture retention, caused by a possible leak, and as a result, the Landlord completely removed the sink, put in a brand new faucet, and re-caulked it.
20. The Tenant argues there is still mould underneath the sink since the repair was done by the Landlord. The Tenant entered into evidence a picture showing the underneath of the sink, with a few brown and black small circles that the Tenant advises is mould. The Tenant did not attempt to clean it off, nor did she advise the Landlord of this after the completion of the repairs.
21. I find that the Landlord responded to the Tenant's complaint and fixed the sink in a timely manner. I am not satisfied there is an ongoing issue with mould underneath the sink. Therefore, this part of the Tenant's application is dismissed.

Mould in the Basement

22. The Tenant indicates in her December 5, 2024 email, that there is mould in the basement. The Tenant claims her black ottoman, which was stored in the basement, has been damaged. The Tenant uploaded a picture of the basement storage area showing a black ottoman that she claims has mould on it.
23. The Tenant failed to show any evidence that there is mould in the basement. I am unable to determine what is on the black ottoman, as it appears dusty and dirty. The Landlord indicates when she attended the residence on January 7, 2025, to inspect the hot water tank in the basement, she did not observe any mould in the basement, nor did the Tenant point any out.
24. On any application before the Board the applicant bears the burden of proof. In this instance, that means the Tenant must lead sufficient evidence to establish that it is more likely than not that there is a mould issue in the basement. The Tenant has failed to do this, therefore the Tenant's claim about mould in the basement is dismissed.

Leaking Pipe in the Shower

25. The Tenant claims that there is a leaking pipe in the shower that caused some water damage to the bathroom floor and the kitchen ceiling, and that this issue started prior to March 2023. The Tenant acknowledges that the Landlords did fix the water leak, but submits that she was not satisfied with the repair as she thought of it as a "quick fix". The Landlord claims the repairs were already done and, to her knowledge, this was no longer an issue. The first the Landlords heard about this again was when the Tenant filed the s. 82 form. The Tenant was unable to explain in the remedy section of the form what she meant by, "the valve needs to be properly fixed".
26. Section 29(1) 1 of the Act states that a tenant or former tenant of a rental unit may apply to the Board for an order determining that the landlord has breached an obligation under subsection 20(1) or section 161. Section 29(2) of the Act states that no application may be

made under subsection (1) more than one year after the day the alleged conduct giving rise to the application occurred.

27. The Tenant has failed to establish that the Landlords have breached their maintenance obligation under s. 20(1) of the Act. The Landlords were made aware of the leak in 2023, the Landlords repaired it at an unknown date, and there is currently no longer a leak. There is no evidence of another leak reported after March 2023 and so given the timing, over a year has passed since the day the conduct giving rise to the application occurred. Therefore, the leaking pipe in the shower claim is dismissed.

Insufficient Heating

28. The Tenant indicates in the December 5, 2024 email to the Landlords that there is insufficient heat in the rental unit. The Landlords responded to the email the same day, indicating the Landlords could send a service request immediately to address the heating issue.
29. The Tenant claims this has been an ongoing issue since she moved in in October of 2020. The Landlords claim this issue has never been disclosed until the December 2024 email was sent to her.
30. The Landlords attended the residence on January 16, 2025 to assess the heating issue as the Tenant claimed the heating was at 53 degrees Fahrenheit in the back bedroom. It was undisputed that when the Landlords attended the residence, the thermostat was set at 65 degrees Fahrenheit. It was also undisputed that the temperature of the Tenant's bedroom was 62 degrees Fahrenheit. The bedroom door was closed.
31. The Landlords inspected the heating system and indicate there is no heating issue in the residential unit. The Landlords are in the business of heating and cooling and own their own company and submit that they would know if there was an issue. The Landlords indicate the reason the bedroom was a little lower than the set temperature was because the door was closed.
32. Heating is considered a vital service in accordance with the Act under section 2(1). In O.Reg. 516/06, s. 4, heating must be at 20 degrees Celsius from September 1, to June 15.
33. The Tenant had set the thermostat herself at 65 degrees Fahrenheit on the day the Landlords attended the residence, which is equivalent to approximately 18 degrees Celsius. However, the Tenant failed to provide any evidence to the Board and therefore failed to prove that the temperature was unable to reach 20 degrees Celsius. This claim must be dismissed.

Door Frame is Falling Apart

34. The Tenant submitted that on April 14, 2024, she advised the Landlords that part of the interior door frame from the main exterior door had fallen off. It is undisputed that the Landlords attended the residence at some point thereafter to secure the doorframe.
35. The Tenant uploaded a picture showing that a piece of the door frame had fallen off. No evidence was led as to when this picture was taken.

36. The Landlord indicates she thought this was rectified at the time it was reported in April of 2024. When the Landlords attended the residence on January 16, 2025, the Tenant pointed out that the door frame was once again loose, and the Landlords proceeded to tighten the door frame and fix it.

37. In my view, the Landlords addressed the issue with the door frame in a timely manner and this issue has been fixed. Therefore, the claim for the door frame is dismissed.

Rats Underneath the Porch and a Deceased Pigeon

38. The Tenant advises she told the Landlords about rats underneath her porch two years ago. At the time, the Landlords provided the Tenant with a rat trap. The Landlords did not hear anymore complaints from the Tenant, until they read the s.82 claim form. It is also unclear how the rats under the porch are a disrepair issue under s.29(2) of the Act. There was also no evidence led as to how the rats under the porch impacted the Tenant.

39. A landlord is not generally liable for any disrepair they had no knowledge of and could not reasonably have known about. (see: the LTB Interpretation Guideline #5 Breach of Maintenance Obligations; *McQuestion v. Schneider* (1975), 8 O.R. (2d) 249 (C.A.); and s. 16 of the Act.).

40. As the Landlords were unaware that the rats were still a problem, I find the claim with respect to the rats must be dismissed.

41. The same reasoning applied with regards to the dead pigeon. The Tenant indicates there has been a dead pigeon in an area above the porch since June 18, 2024. The Tenant indicates she told the Landlords about this in a text message on the same day she saw it but the Landlords never came. The Landlord indicates her husband did attend to dispose of the pigeon at the time of the text message. The Landlord claims this is the first she has heard of the dead pigeon issue since June 2024.

42. In my view, the Tenant has failed to establish, on a balance of probabilities, that the Landlords failed to do anything about the pigeon. Therefore, this part of the s.82 claim must be dismissed.

No Screens on all Upstairs Windows and no Locks on Window Living Room

43. The Tenant indicates on her s. 82 claim form there was no lock on the main window in the living room as it had been broken on April 24, 2024. The Landlord submits the Tenant did advise her of the broken lock, but and there was a temporary fix by installing a board to prevent any access. The Landlord never heard any further complaints until it appeared on the s. 82 claim form.

44. At that time, the Landlords ordered a replacement lock for that window which was then installed on February 7, 2025.

45. In my view the lock was fixed, although temporarily fixed at first, therefore this part of the s.82 claim must be dismissed.

46. Lastly, the Tenant advises she has not had any screens on various windows since she moved in in 2020. She says she notified the Landlords several times over the telephone. The Landlord indicates the first she learned of this was when she read the s.82 claim form.
47. There is not enough evidence before me to establish the Landlords knew about the missing screens prior to the s.82 claim form. Therefore, the claim with respect to the missing screens must be dismissed.

Relief from Eviction:

48. The Landlords are requesting a standard 11-day eviction order. The Landlord indicates there has been a breakdown in the relationship with the Tenant since the N4 Notice was served on the Tenant. The Landlord indicates the arrears keep accruing and are substantial.
49. The Tenant is requesting to remain in the rental unit. The Tenant indicates she lives there with her two children and is not currently working. Through the Tenant's testimony, it was clear that the Tenant does not earn enough money to afford the rent. This tenancy is not viable. The Tenant indicates she is in correspondence with a homelessness prevention program, and if she pays the March rent, she would be eligible to receive three months of rent relief.
50. Given the date of this order and time has now passed, I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act, and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1)(a) of the Act.
51. This order contains all of the reasons for the decision within it. No further reasons shall be issued.

It is ordered that:

1. The tenancy between the Landlords and the Tenant is terminated unless the Tenant voids this order.
2. **The Tenant may void this order and continue the tenancy by paying to the Landlords or to the LTB in trust:**
 - \$7,203.36 if the payment is made on or before May 31, 2025. See Schedule 1 for the calculation of the amount owing.

OR

 - \$8,372.92 if the payment is made on or before June 9, 2025. See Schedule 1 for the calculation of the amount owing.
3. The Tenant may also make a motion at the LTB to void 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 9, 2025 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.

4. **If the Tenant does not pay the amount required to void this order the Tenant must move out of the rental unit on or before June 9, 2025.**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$3,403.05. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. The rent deposit and interest the Landlords owe on the rent deposit are deducted from the amount owing by the Tenant. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlords compensation of \$38.45 per day for the use of the unit starting March 27, 2025 until the date the Tenant moves out of the unit.
7. If the Tenant does not pay the Landlords the full amount owing on or before June 9, 2025, the Tenant will start to owe interest. This will be simple interest calculated from June 10, 2025 at 5.00% annually on the balance outstanding.
8. If the unit is not vacated on or before June 9, 2025, then starting June 10, 2025, the Landlords may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
9. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlords on or after June 10, 2025.

May 29, 2025
Date Issued

Paula West Oreskovich
Paula West Oreskovich
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 December 10, 2025 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 May 31, 2025

Rent Owing To May 31, 2025	\$7,017.36
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlords since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlords owe the Tenant for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total the Tenant must pay to continue the tenancy	\$7,203.36

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before June 9, 2025

Rent Owing To June 30, 2025	\$8,186.92
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlords since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlord owes the Tenant for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total the Tenant must pay to continue the tenancy	\$8,372.92

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

Rent Owing To Hearing Date	\$4,508.38
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlords since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$1,200.00
Less the amount of the interest on the last month's rent deposit	- \$91.33
Less the amount the Landlords owe the Tenant for an {abatement/rebate}	- \$0.00

Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total amount owing to the Landlords	\$3,403.05
Plus daily compensation owing for each day of occupation starting March 27, 2025	\$38.45 (per day)