



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

File Number: LTB-L-047894-25

In the matter of: 431 MANNING AVE
TORONTO ON M6G2V6

Between: Joseph Sammut Landlord

And

Fraser Vandermolen Tenant

Joseph Sammut (the 'Landlord') applied for an order to terminate the tenancy and evict Fraser Vandermolen (the 'Tenant') because:

- the Landlord requires possession of the rental unit in order to demolish the unit.

This application was heard by videoconference on September 2, 2025.

The Landlord and the Tenant attended the hearing.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the Tenant must vacate the rental unit.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On May 1, 2025, the Landlord gave the Tenant an N13 notice of termination with the termination date of August 31, 2025. The Landlord claims vacant possession of the rental unit is required for demolition of the rental unit.
4. The rental unit is located in the basement of the residential complex. The Landlord received an Order to Comply dated April 10, 2025 from the City of Toronto which required that the Landlord either obtain a building permit to validate the unauthorized creation of a rental unit in the basement by construction of a kitchen by May 16, 2025, or remove unauthorized construction and restoration of the space to its original condition.
5. The Landlord took out a building permit dated June 10, 2025 which states that the purpose of the work is "interior alterations". The Landlord stated that his plan is to convert the residential complex from its current four units into two units. The work to accomplish this will consist of removal of walls, adding fire-rated building materials in the entranceway, installation of hardwired fire alarms and removal of the kitchen in the rental unit. As contemplated in the Order to Comply, removal of the kitchen in the rental unit will mean that the basement is no longer a rental unit.
6. This work constitutes a demolition with the meaning of *Two Clarendon Apartments Limited v. Sinclair*, 2019 ONSC 3845 (CanLII), where the issue was whether the work proposed by

the landlord constituted a renovation or a demolition for the purposes of subsection 50(1) of the Residential Tenancies Act (the "Act"). The Board had found that there was a renovation because the unit would be available in the same floor space, albeit reconfigured and extensively rebuilt. The Court upheld the following interpretation of the word "demolish" as reasonable and consistent with the Act and modern principles of statutory interpretation:

13. In a situation where the rental unit continues to exist, albeit in an extremely altered form, it is possible for the tenant to exercise a right of first refusal, because the rental unit is still there: the tenant may move back and continue the tenancy. In a situation where the rental unit is gone, it is not possible for the tenant to exercise a right of first refusal: the rental unit is no longer there and so the tenant cannot move back. The fact that the Act distinguishes renovations and demolitions by the tenant's right of first refusal shows that the intention of these sections of the Act is to preserve tenancies where it is possible to do so.

14. Accordingly, a project will be defined as a renovation under the Act in a case where it is possible for the tenant to move back into the unit and a project will be defined as a demolition where it is not possible for the tenant to move back into the unit.

7. After the work proposed by the Landlord, it will not be possible for the tenant to move back in as there will be no kitchen and so no rental unit. It is clear from the Order To Comply that without a kitchen, there is no rental unit.
8. The Landlord did not pay compensation to the Tenant, relying on s. 52(1)(c) of the Act which does not require payment of compensation when there is a demolition order issued to the Landlord. I find that the Order to Comply constitutes an order for demolition. While it is true that the Landlord could have applied for a permit to retroactively authorize the construction of the kitchen, the Landlord was not ordered to do so. The Landlord was given an option which the Landlord could accept or decline. The effect of declining the option, i.e. declining to take out a permit to authorize the construction of the kitchen, is that demolition of the rental unit, by removal of the kitchen, is ordered. I find that the Landlord was not required to pay compensation to the Tenant.
9. On an application for eviction based on an N13 notice for demolition of the rental unit, the requirements of the Act are set out in s. 73(1) which provides:

73 (1) The Board shall not make an order terminating a tenancy and evicting the tenant in an application under section 69 based on a notice of termination under section 50 unless it is satisfied that,

(a) the landlord intends in good faith to carry out the activity on which the notice of termination was based; and

(b) the landlord has,

(i) obtained all necessary permits or other authority that may be required to carry out the activity on which the notice of termination was based, or

(ii) has taken all reasonable steps to obtain all necessary permits or other authority that may be required to carry out the activity on which the notice of termination was based, if it is not possible to obtain the permits or other authority until the rental unit is vacant. 2006, c. 17, s. 73.

10. I find that the Landlord requires the rental unit to be vacated because the Landlord in good faith intends to demolish it. There is an Order to Comply issued by the municipality which provides for demolition if the Landlord does not obtain a permit for construction of the illegally installed kitchen, and the Landlord has taken out a building permit for this work.
11. The Tenant does not believe the Landlord is acting in good faith. The Tenant suggested the Landlord is seeking an eviction in order to increase the rent which the Tenant believes is below market. The Tenant did not lead any evidence to support this suspicion. The Tenant did not refer to any demands by the Landlord for an above guideline rent increase. The Tenant did not cross-examine the Landlord on this point.
12. The Tenant also states that the Landlord gave an N13 notice in 2021 for work which included demolition of the rental unit by removal of the kitchen. The Landlord elected not to proceed with the work and did not initiate an application. This does not suggest that the Landlord is now acting in bad faith. The Landlord was not, in 2021, faced with an Order to Comply which puts the Landlord in a different position than he was in 2021.
13. I find that the Landlord has complied with the requirements of the Act for termination of the tenancy.
14. The Landlord did not claim daily compensation in the event the Tenant did not vacate after the termination date.
15. The Landlord acknowledged that the Tenant paid a last month's rent deposit of \$850 on May 10, 2011 and that interest on the deposit has not been paid to the Tenant.
16. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act.
17. The Tenant lives alone in the rental unit. He is employed full time. He has no health issues. He has been a tenant for 14 years. He stated that he had not commenced looking for alternate accommodation as he wished to first exercise his right to a hearing. The Landlord did not object to allowing the Tenant until the end of 2025 to move out.
18. After considering all of the disclosed circumstances of both of the parties, in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), I find that it would not be unfair to postpone the eviction until March 31, 2026 pursuant to subsection 83(1)(b) of the Act as this additional time will assist the Tenant in locating new accommodations.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before March 31, 2026.

2. If the unit is not vacated on or before March 31, 2026, then starting April 1, 2026, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. 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 March 1, 2026.

January 7, 2026

Date Issued

Jack Jamieson
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 of the Tenant expires on September 30, 2026 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.