



Order under Section 69 Residential Tenancies Act, 2006

Citation: JCD Inc. v Bass, 2026 ONLTB 2101

Date: 2026-01-05

File Number: LTB-L-061622-25

In the matter of: 201, 266 ST. GEORGE ST
TORONTO ON M5R2P5

Between: JCD Inc. Landlord

And

Kevin Bass Tenant

JCD Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Kevin Bass (the 'Tenant') because:

- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant

This application was heard by videoconference on November 6, 2025.

The Landlord's Agent, Halina Walkiewicz, and the Tenant's Representative (sister), Theresa Bass, attended the hearing.

Determinations:

1. As explained below, the Landlord's second N5 notice of termination is deemed to be invalid, and the application was not filed within 30 days of the termination date of the first N5 notice. Therefore, the application is dismissed.
2. The Tenant was in possession of the rental unit when the application was filed on July 31, 2025.
3. On June 5, 2025, the Landlord gave the Tenant a first, voidable N5 notice of termination deemed served that same day. The termination date listed in the N5 notice was June 30, 2025. The notice alleges that on June 5, 2025, the Tenant left their bike in the hallway of the residential complex violating the fire department code. Therefore, the Landlord was

allowed to give the Tenant a second, non-voidable N5 notice of termination under section 68 of the *Residential Tenancies Act, 2006* (Act).

4. On July 25, 2025, the Landlord gave the Tenant a second N5 notice of termination deemed served that same day. The notice of termination alleges that on July 25, 2025, the Tenant was yelling and smashing items on the second floor of the residential complex, including a window in their unit, resulting in glass hanging outside. The Tenant then went to the third floor, continued screaming, and threatened to kill persons in units 301 and 302. Police were called and attended the residential complex.
5. The issue here is that the second N5 notice checked off “Reason 1” alleging the Tenant substantially interfered with another tenant’s or the Landlord’s reasonable enjoyment of the residential complex and/or lawful rights, privileges, or interests, but did not specify if the notice could be voided. The N5 notice then additionally checks off a portion of “Reason 2” stating that the Tenant wilfully or negligently damaged the rental unit or residential complex, and that the Tenant could void that portion of the notice.
6. The Landlord’s application specifically states that it is based on the second N5 notice. A second N5 notice is non-voidable in nature. When this option is checked off on the form, the Tenant is then expressly made aware that the notice cannot be voided, and the landlord can apply to the Board immediately for an order to evict the tenant. In this instance, the Tenant was given the impression that they could void what the Landlord deemed to be a non-voidable notice. This is confirmed by the Landlord’s Agent’s testimony at the hearing that the Landlord erroneously checked the box on “Reason 2” and meant to check the box in “Reason 1” that the notice was non-voidable.
7. Subsection 43(2) of the Act, states that a notice of termination given by a landlord shall set out the reasons and details respecting the termination. Also, in *Ball v. Metro Capital Property*, [2002] O.J. No. 5931, the Divisional Court held that details are necessary so the tenant is in a position to know the case to be met, can decide whether to dispute the allegations made against them, and can consider whether to stop the behaviour or correct the omission and void the notice. [Emphasis added]
8. The decision in *Ball v Metro Capital Property* makes specific reference to a tenant’s ability to consider stopping the behaviour or correcting the omission to void the notice. The Tenant then receiving a notice of termination that states it is voidable when the Landlord intended for it to be non-voidable is thus inherently confusing for the Tenant. The Tenant’s Representative also confirmed at the hearing that the Tenant did not understand what was being asked of him in the second N5 notice. The Tenant did not know if they were still able to void the notice by ceasing the behaviour or if the Landlord intended to terminate the tenancy regardless.
9. Despite section 212(2) of the Act providing that an error in a form or document is substantially compliant unless there is prejudice to a parties’ ability to participate, I do not find that an N5 notice that does not clearly inform the Tenant that the notice is non-voidable contains the required reasons and details as articulated in *Ball v. Metro Capital Property* to provide the Tenant with enough information to respond accordingly. Therefore, I find the second N5 notice in this instance to be invalid.

10. If the date of termination on the first N5 notice was within 30 days prior to the application being filed, then the Landlord may have had the option to request to amend their application to be based on that notice. However, as the application was filed more than 30 days after the termination date listed on the first N5 notice, the application must therefore be dismissed per subsection 69(2) of the Act.

It is ordered that:

1. The application is dismissed.

January 5, 2026

Date Issued

Fotoula Hatzantonis

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.