



Order under Section 69 Residential Tenancies Act, 2006

Citation: Saad v Garcia, 2026 ONLTB 2235

Date: 2026-01-05

File Number: LTB-L-064108-25

In the matter of: 2505, 231 FORT YORK BLVD
TORONTO ON M5V1B2

Between: Meena-abanoub Saad Landlord

And

David Garcia Tenant

Meena-abanoub Saad (the 'Landlord') applied for an order to terminate the tenancy and evict David Garcia (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;
- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has wilfully or negligently caused damage to the premises;
- the Tenant has been persistently late in paying the Tenant's rent.

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

The Landlord and the Tenant attended the hearing.

Determinations:

1. As explained below, the Landlord has not proven on a balance of probabilities the grounds for termination of the tenancy in the application. Therefore, the application is dismissed.
2. The Landlord's application relies on an N5 notice of termination for substantial interference and damage and an N8 notice of termination for persistent late payment of rent. The Landlord testified that this was a "second" N5 notice and that an earlier N5 notice had been served and voided in July 2025.

N5 Notice

3. A first N5 notice with a termination date of July 31, 2025 was served on the Tenant on July 9, 2025. The Landlord testified that this notice was voided between July 10 and July 17, 2025 when the Tenant addressed the issues set out in that notice.
4. The Landlord then served another N5 notice with a termination date of August 8, 2025. That notice describes alleged noise, balcony and damage issues and the Landlord's evidence was that it was intended to be a second, non-voidable N5 under section 68 of the Act.
5. However, on the face of the second N5, the Landlord did not check the box indicating that this was a "second" N5 notice served within six months of a prior N5. The notice is completed only as a first, voidable N5 notice. There is nothing on the form to tell the Tenant that the Landlord claims it is a second notice, that the Tenant has already used the seven-day voiding opportunity, or that the Landlord can apply to the Board immediately. It also includes events that took place before the first N5 was served or during the voiding period.
6. A notice of termination must clearly set out the nature and consequences of the notice so the tenant can understand the case they must meet and their rights. The Divisional Court in *Ball v. Metro Capital Property* held that notices must be sufficiently detailed and clear to allow tenants to know what is alleged against them and what they must do to avoid eviction. Where a landlord intends a notice to be a second, non-voidable N5, the notice must say so. Failing to indicate that the notice is a second N5 is prejudicial because the Tenant is led to believe the notice is voidable and that they have a fresh opportunity to correct the behaviour within seven days.
7. I find that the second N5 was not given in accordance with the Act as a second, non-voidable notice under section 68. On its face it is a first, voidable N5. The Landlord's subjective intention cannot cure the absence of clear information on the prescribed form. Because the application was advanced on the basis that the N5 was a second notice, and no evidence was led that the Tenant failed to correct the problems within seven days of this notice, the Landlord has not proven that the Tenant is liable to termination on the grounds of substantial interference or damage.

N8 Notice

8. The Landlord also relies on an N8 Notice to End your Tenancy for Persistent Late Payment of Rent with a termination date of September 30, 2025. The notice states that there has been a pattern of rents being persistently late for over a year and refers to prior proceedings but does not list the dates when rent was actually paid. It simply lists due dates on which rent "was not paid even though it was due".
9. For persistent late payment, the Board must be able to assess how often and for how long payments were late. A tenant is also entitled to know the specific pattern being alleged. An N8 that lists only due dates, without the actual payment dates or a clear explanation of the lateness, does not provide sufficient particulars. Without that information, the Tenant cannot know precisely what lateness is being alleged or assess whether the "persistent" characterization is accurate.

10. I find that the N8 notice lacks sufficient particulars to meet the standard described in *Ball v. Metro Capital Property*. As a result, the Landlord has not established that a valid N8 notice for persistent late payment was given in accordance with the Act.

11. The Landlord's application shall be dismissed for the above reasons.

It is ordered that:

1. The Landlord's application is dismissed.

January 5, 2026
Date Issued

Colin Elsby
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.