



**Order under Section 69 / 89
Residential Tenancies Act, 2006**

File Number: LTB-L-061241-25

In the matter of: 2, 643 CARSON'S RD
OTTAWA ON K1K2G9

Between: Carson Hill Apts Ltd. Landlord

And

Dustin Dalton Tenant

Carson Hill Apts Ltd. (the 'Landlord') applied for an order to terminate the tenancy and evict Dustin Dalton (the 'Tenant') because:

- 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, another occupant of the rental unit or someone the Tenant permitted in the residential complex has wilfully caused undue damage to the premises.

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

The Landlord also applied for an order requiring the Tenant to pay the Landlord's reasonable out-of-pocket costs the Landlord has incurred or will incur to repair or replace undue damage to property. The damage was caused wilfully or negligently by the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex.

This application was heard by videoconference on December 17, 2025.

The Landlord's agent, Kathy Bartkowski, 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. However, in the circumstances I find it appropriate to order conditional relief from eviction. The tenancy will continue provided the Tenants comply with certain terms.
2. The Tenant was in possession of the rental unit on the date the application was filed.

N5 Notice of Termination

3. On March 29, 2025, the Landlord served the Tenant with a first, voidable N5 notice of termination pursuant to section 64 of the *Residential Tenancies Act, 2006* (the 'Act'). On June 14, 2025, the Landlord served a second, non voidable N5 notice pursuant to section 68. For the reasons that follow, I find that both N5 notices are invalid, and this portion of the application is dismissed.
4. The March 29, 2025, notice did not indicate whether it was a first voidable notice or a second non voidable notice. Section 43 of the Act requires that a notice of termination set out the reasons and the details respecting termination. In *Ball v. Metro Capital Property, 2002 O J No 5931*, the Divisional Court held that a notice must provide sufficient particulars to allow the recipient to understand the specific allegations and to know the case to meet. The omission in the March 29 notice deprived the Tenant of clear information about whether the notice could be voided by correcting the behaviour or by vacating within seven days. In light of *Ball* and section 43, I am not satisfied that the first N5 meets the mandatory requirements of the Act. It is invalid and its contents cannot be considered.
5. Because the first notice is invalid, the Landlord had no authority under subsection 68 (1) to serve a second N5. The second notice should not have been served. Accordingly, the N5 component of the application is dismissed.

N7 Notice of Termination

6. On June 14, 2025, the Landlord served the Tenant with an N7 notice of termination alleging wilful damage to the rental unit.
7. KB testified that the Landlord's plumber attended the unit on June 2, 2025, to complete repairs and found a hole in an interior wall that had been partially patched, a broken toilet seat, and conditions in the unit that were unsanitary and impeded plumbing work. Photographs taken on June 2, 2025, were filed.
8. The Tenant did not dispute that the toilet seat was broken and stated he did not remember how it occurred. He also stated that a friend punched the wall, creating the hole, and that they attempted a patch that was painted with a different colour.
9. Section 63(1) of the Act says:

63 (1) Despite section 62, a landlord may give a tenant notice of termination of the tenancy that provides a termination date not earlier than the 10th day after the notice is given if the tenant, another occupant of the rental unit or a person whom the tenant permits in the residential complex,

(a) wilfully causes undue damage to the rental unit or the residential complex; or

10. On the evidence before me, I am satisfied on a balance of probabilities that the Tenant and or a guest wilfully caused undue damage. The photographs show that approximately one

third of the toilet lid was missing, which, in my view, is more consistent with an impact from a heavy object than with accidental breakage. The Tenant's admission that his friend punched the wall and created the hole further supports a finding of wilful damage. I therefore find that the Tenant and a person permitted by the Tenant caused undue damage within the meaning of section 63.

11. KB also testified that damage continued after the L2 was filed. Photographs from an inspection in October 2025 show a burn mark on the kitchen counter. The Tenant did not dispute the mark and explained that it occurred during cooking. This additional evidence corroborates an ongoing pattern of damage.
12. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

Compensation for damages

13. The Landlord seeks reasonable costs of \$1,000.00 to address damage that cannot be repaired. At the hearing, the Landlord stated an intention to incur \$550.00 to replace the kitchen counter and \$450.00 to repair a hole in the wall. No invoices, quotations, or testimony from a qualified person were filed to establish that these amounts are necessary or reasonable. Without this evidence, I am not satisfied that the claimed costs have been proven. This claim is dismissed.

Relief from eviction

14. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would not be unfair to grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.
15. At the hearing, KB sought termination based on ongoing damage in the unit. The Tenant acknowledged responsibility for damage and stated that, after a friend punched the wall, he attempted a repair to the best of his ability.
16. Eviction is a remedy of last resort. I am satisfied that the Tenant now understands his obligations. While the Landlord alleges continued wilful damage after the application was filed, the evidence of burn marks on the kitchen counter does not, on this record, establish wilful conduct. In these circumstances, a conditional order permitting the tenancy to continue is appropriate.

It is ordered that:

1. The tenancy between the Landlord and the Tenant continues if the Tenant meets the conditions set out below.
2. For a period of 12 months from the date of this order, the Tenant, any other occupant of the rental unit, and any person the Tenant permits in the residential complex must refrain from causing further wilful undue damage to the premises.

3. If the Tenant fails to comply with the conditions set out in paragraph #2 of this order, the Landlord may apply under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') for an order terminating the tenancy and evicting the Tenant. The Landlord must make the application within 30 days of a breach of a condition. This application is made to the LTB without notice to the Tenant.
4. The Tenant shall pay to the Landlord \$186.00 for the cost of filing the application.
5. If the Tenant does not pay the Landlord the full amount owing on or before January 17, 2026, the Tenant will start to owe interest. This will be simple interest calculated from January 18, 2026, at 4.00% annually on the balance outstanding.

January 12, 2026
Date Issued

Joy Xiao
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.