



Order under Section 69 / 89 Residential Tenancies Act, 2006

Citation: CAPREIT LIMITED PARTNERSHIP v MCNICOL, 2026 ONLTB 7875

Date: 2026-01-23

File Number: LTB-L-096420-25

In the matter of: 1213, 100 WELLESLEY ST E
TORONTO ON M4Y1H5

Between: CAPREIT LIMITED PARTNERSHIP

Landlord

And

PETER MCNICOL
JASON RAYMOND HILL

Tenants

CAPREIT LIMITED PARTNERSHIP (the 'Landlord') applied for an order to terminate the tenancy and evict PETER MCNICOL and JASON RAYMOND HILL (the 'Tenant') because:

- the Tenants, another occupant of the rental unit or a person the Tenants permitted in the residential complex has seriously impaired the safety of any person and the act or omission occurred in the residential complex;
- the Tenants, another occupant of the rental unit or someone the Tenants permitted in the residential complex has wilfully caused undue damage to the premises.

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

The Landlord also applied for an order requiring the Tenants 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 Tenants, another occupant of the rental unit or someone the Tenants permitted in the residential complex.

This application was heard by videoconference on December 2, 2025 at 1:31 p.m.

Only the Landlord's agent Peter Rabe and the Landlord's representative Geoff Paine, licensed paralegal, attended the hearing.

As of 1:31 p.m., the Tenants were not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

When the capitalized word “Tenant” is used in this order, it refers to all persons identified as a Tenant at the top of the order.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation in the application. Therefore, the tenancy between the Landlord and Tenant is terminated on February 3, 2026, and the Tenant shall pay \$28,769.80 to the Landlord for damages to the rental unit.
2. The Tenant was in possession of the rental unit on the date the application was filed.

N7 Notice of Termination – Willful Damage

3. On November 14, 2025, the Landlord gave the Tenant an N7 Notice of termination. The Notice of termination alleges the Tenant willfully damaged the rental unit.
4. A tenancy may only be terminated under subsection 63(1) of *Residential Tenancies Act, 2006* (the 'Act') where it can be found that the Tenants caused the damage willfully.
5. Subsection 63(1) of *the Act*, states the following:

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

6. In this case, I find the Tenant has wilfully caused undue damage to the rental unit and residential complex by causing flooding, and demolishing areas of the kitchen and bathroom as well as other areas in the rental unit.
7. The rental unit is a 2-bedroom unit located on the 12th floor of a multi residential complex that contains 427 units.
8. The Landlord’s witness Peter Rabe (“PR”) is the Associate Director of Operations and performs property management work for the Landlord. PR testified that he received complaints from the tenant in unit 1113, the unit directly below the subject unit, that water was leaking through the ceiling into her unit. Entered into evidence were emails dated October 14, 2025 at 11:36 p.m. and October 17, 2025 at 2:41 p.m. supporting PR’s testimony. Also entered into evidence is a video dated October 17, 2025 taken by the tenant in unit 1113 showing water pouring through the ceiling into her bathroom.
9. PR further testified that on October 18, 2025 the fire department arrived to assess the damage. Entered into evidence was a report dated October 18, 2025, completed by Toronto Fire Services, which concludes the cause of the damage was purposeful flooding caused by the Tenant and instructs the Landlord to rectify the situation immediately.

10. On November 6, 2025 the Landlord received another complaint from the tenant in unit 1113 about flooding. PR further testified that as the flooding was both serious and presented an emergency, he inspected the subject unit to address the issue, and upon completing the inspection observed a stream of water coming from exposed plumbing and significant damage to the interior of the rental unit.
11. Entered into evidence was a video dated November 6, 2025 taken by PR; the video shows staff attempting to stop the flooding in the subject unit, the bathroom vanity demolished, as well as towels covering the exposed plumbing. PR further testified that the Tenant admitted damaging the unit; whereas the audio at the 0:39 mark captures the Tenant saying that he went and grabbed an axe in response to PR asking why the Tenant destroyed the entire bathroom, following which a voice can be heard telling the Tenant that is not acceptable to demolish your own apartment.
12. PR testified that after the flood the unit was assessed for damage. Entered into evidence were photographs of the unit taken by PR dated November 13, 2025 showing damage to the kitchen backsplash, stove, drywall and electrical outlets including the thermostat. In describing the photographs including the serious damages incurred to each item, PR further testified that the Tenant was responsible for this damage.
13. Based on the evidence before the Board, I am satisfied that the Landlord has met the burden of proof to establish that the Tenant has willfully damaged the rental unit and is responsible for all the damages described. I am persuaded and give considerable weight to the video documentary evidence and PR's description thereof, specifically that the Tenant's actions were intentional and deliberate and a reasonable person would know that swinging an axe at a vanity would likely incur damage.
14. The Landlord has met its burden of proof with respect to showing the Tenant willfully damaged the rental unit. Given this finding, it is neither necessary nor appropriate for me to make any determination regarding whether the Tenant seriously impaired the safety of any person, and the act or omission occurred in the residential complex. I therefore make no findings on this allegation.

Compensation for Damages

15. The Landlord's representative submitted into evidence a copy of the quote from Multitech Contracting 2000 Inc. dated November 27, 2025 showing the cost of the materials and labour to repair the subject unit. The total amount on the invoice is \$31,870.52 including tax. Also entered into evidence was a copy of a draft purchase order from Multitech Contracting 2000 Inc. dated October 15, 2025 showing the cost of the materials and labour to repair unit 1113, \$460.00.
16. Section 89 (1) of *the Act* states:

A landlord may apply to the Board for an order requiring a tenant or former tenant to pay reasonable costs that the landlord has incurred or will incur for the repair of or, where repairing is not reasonable, the replacement of damaged property if,

(a) while the tenant or former tenant is or was in possession of the rental unit, the tenant or former tenant, another occupant of the rental unit or a person

permitted in the residential complex by the tenant or former tenant wilfully or negligently causes or caused undue damage to the rental unit or the residential complex;

17. I find based on PR's testimony and a review of the severity of the damage of the unit from the photographs and the video, the costs to repair the damages to the unit as described in paragraph 15 are reasonable. Therefore, I find the Tenant shall pay to the Landlord \$28,769.80, the amount requested in the Landlord's application.

Daily compensation, NSF charges, rent deposit

18. Based on the monthly rent, the daily compensation is \$54.18. This amount is calculated as follows: \$1,647.85 x 12, divided by 365 days.
19. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
20. The Landlord collected a rent deposit of \$1,648.49 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$30.22 is owing to the Tenant for the period from January 1, 2025 to the date of the hearing. The amount of the rent deposit and interest on the rent deposit is applied to the amount the Tenant is required to pay.
21. 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of *the Act*.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated on February 3, 2026. The Tenant shall move out of the unit on or before February 3, 2026.
2. If the unit is not vacated on or before February 3, 2026, then starting February 4, 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 February 4, 2026.
4. The Tenant shall pay to the Landlord \$28,769.80, which represents compensation for the damages to the rental unit.
5. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
6. The total amount the Tenant owes the Landlord is \$27,277.09, which includes the amount owing, including the application fee, less the rent deposit and interest.
7. The Tenant shall also pay to the Landlord daily compensation of \$54.18 for each day the Tenant remains in the unit.

8. If the Tenant does not pay the Landlord the full amount owing on or before February 3, 2026, the Tenant will start to owe interest. This will be simple interest calculated from February 4, 2026 at 4.00% annually on the balance outstanding.

January 23, 2026
Date Issued

Greg Witt
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 July 29, 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.