



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

File Number: LTB-L-064183-25

In the matter of: UPPER UNIT, 1189 RIDEAU ST
SUDBURY ON P3A3A5

Between: MATTHEW WEIDERMAN Landlord

And

JULIAN MALICK Tenants
RACHEL CRAIG

MATTHEW WEIDERMAN (the 'Landlord') applied for an order to terminate the tenancy and evict JULIAN MALICK and RACHEL CRAIG (the 'Tenants') because:

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

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

MATTHEW WEIDERMAN (the 'Landlord') also applied for an order requiring JULIAN MALICK and RACHEL CRAIG (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 November 24, 2025.

The Landlord, the Landlord's Legal Representative, Jennifer Murray, the Tenants and the Tenants' Legal Representative, John Anderson, attended the hearing.

Preliminary Issue:

1. The Tenants raised an issue regarding the service of the N5 Notice in this matter.

2. The Certificate of Service filed by the Landlord indicates that the N5 Notice was sent via mail on June 20, 2025. In accordance with Rule 3.9(a), service would be deemed to have happened on the fifth day after mailing, or on June 25, 2025.
3. Given this above information, the voiding period for this matter should be June 26 – July 2, 2025.
4. The Tenants indicated that they did not receive the N5 until July 1, 2025 at 2pm. They further provided evidence of a postmark on the envelope of the N5 Notice dated June 27, 2025.
5. The Tenants submitted that their receipt of the N5 Notice on July 1, 2025 only gave them one (1) day to void the N5 Notice, using the voiding period identified above, which was prejudicial to them.
6. The Landlord's Legal Representative submitted that she personally mailed the letter(s) containing the N5 Notices on June 20, 2025 and could not explain the discrepancy with the postmarks.
7. Given this discrepancy in service dates, the Landlord suggested that the voiding period for this matter be adjusted to reflect the Tenants' actual alleged receipt date of July 1, 2025, making the voiding period for this matter July 2-8, 2025.
8. The only prejudice submitted by the Tenants regarding this issue was the abbreviated voiding period. It is fair to extend the voiding period for any considerations of the alleged breaches in this matter, and I find the voiding period to be July 2-8, 2025.

Determinations:

9. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. However, I find it appropriate to exercise my discretion and therefore, the tenancy shall continue on the conditions ordered below.
10. The Tenants were in possession of the rental unit on the date the application was filed.

N5 Notice of Termination – Substantial Interference

11. On June 20, 2025, the Landlord gave the Tenants an N5 notice of termination deemed served on July 1, 2025 (as outlined above). The notice of termination contains the following allegations:
 - a) The Tenants denied entry to the rental unit by the Landlord on multiple dates during the period January – June 2025;
 - b) The Tenants have been parking their trailer in the driveway, exceeding their allocated number of parking spaces from their lease;
 - c) The Tenants have been storing their belongings in a shed in the backyard that is not allocated to them; and
 - d) The Tenants have been operating the air conditioner unit inappropriately.

12. The Landlord testified that the denial of entry allegation was voided by the Tenants.
13. The Landlord did not provide any submissions regarding the air conditioner allegations, so I am deeming that allegation to be voided.
14. The Tenants did not stop the conduct or activity after receiving the N5 notice of termination, specifically regarding the parking and shed storage issues. Therefore, the Tenants did not void the N5 notice of termination in accordance with s.64(3) of the *Residential Tenancies Act, 2006 (Act)*.

N5 Notice of Termination - Wilful or Negligent Damage

15. On June 20, 2025, the Landlord gave the Tenants an N5 notice of termination deemed served on June 25, 2025. The notice of termination contains the allegation that the Tenants removed and broke pieces of 4x8 lumber constituting a retaining wall from the residential complex without permission from the Landlord.
16. The Tenants did not repair the damage, pay the Landlord the reasonable costs to repair the damage or make arrangements satisfactory to the Landlord within seven days after receiving the N5 notice of termination. Therefore, the Tenants did not void the N5 notice of termination in accordance with section 62(3) of the *Residential Tenancies Act, 2006 (Act)*.
17. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

Landlord's Evidence

18. The Landlord testified that:
 - a) He lives in the residential complex with the Tenants;
 - b) He neither gave the Tenants permission to remove the 4x8 wood pieces constituting a retaining wall, nor participated in their removal;
 - c) The wood pieces were damaged when they were removed and the Landlord provided photos into evidence showing the state of the wood pieces prior to their removal and after;
 - d) The broken pieces of wood were put back into place as a retaining wall in the last month or month and a half;
 - e) The lease agreement (entered into evidence) allows the Tenants two (2) parking spaces and no additional storage at the residential complex. The agreement also indicates that any additional parking spaces cost \$75/month;
 - f) The Tenants paid for the extra parking spot for several months, but have not been doing so recently;
 - g) The Tenants have been taking up three (3) parking spots in the driveway, with the third spot occupied by the Tenants' trailer;

- h) He has asked the Tenants to remove their belonging from the shed in the backyard for several months. Their belonging are still in the shed; and
- i) Given these issues, he feels uncomfortable living in his own home.

Tenants' Evidence

19. The Tenant, Rachel Craig, testified that:

- a) The wood retaining wall was in place when the Tenants moved in and was not in good condition;
- b) The wood was removed before the winter in 2024;
- c) The Landlord assisted in removing the wood;
- d) The Tenants re-installed the wood before August 6, 2025;
- e) There are two sheds on the property and the Landlord gave them verbal permission to use one of them at the commencement of the tenancy;
- f) They parked one of their two vehicles (Honda) in a storage unit over the winter (November 2024 – April 2025);
- g) The trailer was not parked in the driveway until December 1, 2024, so for the period December 2024 – April 2025, there were only two vehicles parked in the driveway; and
- h) In June 2025, there were three (3) vehicles parked in the driveway. They did not pay for parking in June 2025, as they had continued to pay the additional \$75/month parking fee during the winter while there were only two vehicles in the driveway.

Analysis

- 20. The Tenants, another occupant of the rental unit or someone the Tenants permitted in the residential complex substantially interfered with the reasonable enjoyment of the residential complex by the Landlord or another lawful right, privilege or interest of the Landlord.
- 21. The issue of the use of the shed for storage by the Tenants is contested. The Tenants indicate that the Landlord verbally agreed to allow them use of the shed at the commencement of the tenancy, whereas the Landlord states that this permission was never given.
- 22. The lease agreement, under Part 6 "Services and Utilities" clearly indicates that "Additional Storage Space" is not a service included in the lawful rent for the rental unit. As such, I prefer the evidence of the Landlord in this regard and find that the shed was not meant for the use of the Tenants.
- 23. The issue of the third parking space is not contested. The Tenants indicate that they have parked a third vehicle in the driveway (the trailer) and that they did not pay for that

additional parking for certain months due to having overpaid in previous months for parking when they only had two vehicles in the driveway.

24. Neither party to a tenancy agreement can unilaterally change its terms. This is a basic premise of contract law. The Tenants are attempting to make a unilateral change to the terms of the tenancy agreement by refusing to pay additional parking during the month it was due. If there are issues with overpayment of additional parking fees, the Tenants should be pursuing an application with the Board for reimbursement of these fees, not unilaterally withholding them.
25. Accordingly, I find that the Tenants' actions constitute a substantial interference with the Landlord's enjoyment of the residential complex.
26. The Landlord has not proven that the Tenants, another occupant of the rental unit or a person whom the Tenants permitted in the residential complex wilfully or negligently caused undue damage to the rental unit or residential complex.
27. The Landlord provided photos of the wooden retaining wall prior to its dismantling (in September 2024) and of the wooden pieces after it was dismantled (in June 2025). I do not see a fundamental difference in the condition of the wood between these two time periods – the wood constituting the in-place retaining wall in September 2024 is in rough shape, with a significant break in the wood visible near the middle of its run.
28. The Tenant testified that she is a general contractor and that she sought both the permission, and assistance of, the Landlord in removing the wood. The Landlord denies either giving permission for the wood's removal or assisting.
29. I prefer the testimony of the Tenant regarding this issue. The Landlord's own photographs depict a wooden retaining wall in a damaged state and the Tenant's testimony regarding the circumstances of the removal of the wood was clear and reasonable.
30. Accordingly, I do not find that the Tenants caused wilful or negligent damage to the rental unit.

Relief from eviction

31. The Landlord sought a termination of the tenancy and payment of damages. As indicated above, I do not find that damages are warranted in this matter.
32. The Act is remedial in nature. In *Matthews v. Algoma Timberlakes Corp.*, 2010 ONCA 468 (CanLII), [2010] O.J. No. 2710 (C.A.) ("Matthews"), the Court of Appeal for Ontario ruled, at paragraph 22: "Given the remedial nature of the Act, its provisions must be interpreted liberally to ensure the realization of its objectives." At paragraph 32, the Court of Appeal concluded: "The purpose of the legislation is to provide protection to tenants."
33. The Court of Appeal for Ontario's reasons in *Matthews* are consistent with earlier decisions by the Court, and by the Divisional Court, that the purpose of Act is to promote security of tenure.
34. Therefore, terminating a tenancy and evicting a tenant from a rental unit is a remedy of last resort.

35. Given the nature of the founded allegations in this case (unauthorized use of the shed and uncompensated additional parking), I find that a conditional order to remedy these items is appropriate. These concerns are easily remedied by the Tenants.
36. 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.

It is ordered that:

1. The tenancy between the Landlord and the Tenants continues if the Tenants meet the conditions set out below.
2. On or before February 28, 2026, the Tenants shall remove all personal items from the shed.
3. For the duration of the tenancy, the Tenants shall pay for additional parking, when it is utilized, in accordance with the terms of their tenancy agreement.
4. If the Tenants fail to comply with the conditions set out in paragraph 2 and 3 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 Tenants. 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 Tenants.
5. The Tenants shall also pay to the Landlord \$186.00 for the cost of filing the application.
6. If the Tenants do not pay the Landlord the full amount owing on or before February 7, 2026, the Tenants will start to owe interest. This will be simple interest calculated from February 8, 2026 at 4.00% annually on the balance outstanding.

January 27, 2026
Date Issued

Curtis Smith
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.