



Order under Section 69 / 89 Residential Tenancies Act, 2006

Citation: BARSANTI v MALLAIS, 2026 ONLTB 5807

Date: 2026-02-06

File Number: LTB-L-097530-25

In the matter of: BASEMENT ROOM, 15 GRANGEMILL RD
SAULT STE. MARIE ON P6B3Y3

Between: VICTORIA BARSANTI Landlords
DAVID BARSANTI

And

MACKENZIE MALLAIS Tenant

VICTORIA BARSANTI and DAVID BARSANTI (the 'Landlords') applied for an order to terminate the tenancy and evict MACKENZIE MALLAIS (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 Landlords also claimed compensation for each day the Tenant remained in the unit after the termination date.

VICTORIA BARSANTI and DAVID BARSANTI (the 'Landlords') also applied for an order requiring MACKENZIE MALLAIS (the 'Tenant') to pay the Landlords' 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 January 13, 2026.

The Landlords and the Tenant attended the hearing.

Determinations:

1. For the reasons below, the Landlords' application is dismissed.
2. This residential complex is student housing, primarily for Sault College students. The Tenant rents a basement unit in the house.

3. The central issues are:

- whether an animal the Tenant keeps as a pet has caused substantial problems,
- whether the Tenant has wilfully or negligently (i) caused undue damage to the rental unit or residential complex, or (ii) allowed her pet(s) to cause undue damage to the residential complex, and
- whether the Tenant is liable for any damage caused.

4. The Tenant was in possession of the rental unit on the date the application was filed.

5. The Tenant acknowledges that she keeps three pigeons and two dogs in the rental unit.

N5 Notice of Termination

6. On November 7, 2025, the Landlord gave the Tenant a first, voidable N5 notice of termination (the 'N5'). The notice of termination contains the following allegations:

- the Tenant smoked in the rental unit or within the residential complex, contrary to the lease agreement, and
- the Tenant allowed clutter to accumulate to an unacceptable level in the rental unit and/or in shared spaces.

7. Additionally, the Landlords claim that the Tenant is housing a wild animal, namely a pigeon or pigeons and that the keeping of wildlife is a breach of municipal bylaws and of the residential tenancy agreement. They alternatively claim that, if the pigeons are deemed "pets", the presence and conduct of the birds substantially interferes with the reasonable enjoyment of other tenants and the Landlords.

8. The Landlords also objected to the Tenant keeping two dogs. They assert in the N5 that on July 4, 2025, one of the Tenants' dogs "ran and jumped on a neighbour".

9. They demand that the Tenant remove all of her pets because pets are not permitted in the rental unit or within the residential complex.

10. Finally, the Landlords allege that the rental unit and portions of the residential complex were unduly damaged by the Tenant smoking and from pigeon odors and feces. They estimate they will have to expend \$1,500.00 in costs to remove the odors and residue.

"No Pet" restrictions in tenancy agreements

11. There is no dispute that caring for domesticated pigeons is a hobby for some people. The Tenant's evidence is that she belongs to the Pigeon Fanciers Association which issued leg bands for the pigeons.

12. The Landlords were unable to point to any applicable municipal bylaw prohibiting the keeping of domesticated pigeons as pets. Although they referred to the City of Sault Ste. Marie's By-law 2005-37, it is clear that it is a 'nuisance' bylaw enacted to prohibit residents from feeding or otherwise attracting and/or keeping wild pigeons within residential areas.

13. I accept the Tenant's evidence that her pigeons are domesticated and are pets.

14. The *Residential Tenancies Act, 2006* (the 'Act') specifically states that "no pet" clauses in rental agreements are void. Tenants are entitled to have pets and "no pet" clauses in a

lease agreement are unenforceable under section 14 of the Act. Therefore, a tenant keeping pets is not a valid reason to serve a notice of termination.

15. Pursuant to section 76 of the Act, an issue may arise about whether the pet in question causes substantial interference with reasonable enjoyment during a tenancy. Termination of a tenancy may be considered but it must be grounded in the behaviour of the pet.
16. The Landlords must establish that the pet has caused or contributed to the substantial problems alleged and that the Tenant failed to correct this conduct within the 7-day voiding period in a first notice of termination as set out in subsection 64(3) of the Act.

N5 voiding period

17. The voiding period for the N5 began on November 8, 2025 and ended on November 14, 2025. The Landlords seek to terminate the tenancy because, they submit, the Tenant did not completely void the N5 as required.
18. There is no dispute that the Tenant ceased smoking within the rental unit or within the residential complex and that the Tenant eliminated the clutter within seven days after receiving the notice of termination, thereby voiding the N5 on those grounds.
19. The Landlords claim that the Tenant did not stop the conduct or activity within the seven days in relation to the substantial interference caused by the pigeons. They also claim that, within those 7 days, the Tenant failed to pay for or repair the damage the Tenant wilfully or negligently caused or permitted to be caused within the residential complex.
20. The problem for the Landlords is that they led no evidence to demonstrate that the Tenant failed to void the N5. There was no evidence led of any breach, namely specific dates or details.
21. Additionally, I note that the incident with the dog and the neighbour did not occur at the residential complex. Even if it had, the Landlords led no evidence to show how the incident constituted substantial interference of the kind contemplated by the Act.

The undue damage claimed

22. Inadequate evidence was introduced by the Landlords to establish the nature and extent of the damage allegedly caused by the Tenant smoking in the house and by the pigeons, which would warrant requiring the Tenant to pay for the cost of repair.
23. Regarding the window screens, the Tenant does not dispute that there is damage to them but denies any responsibility. Her evidence contradicts the Landlords' claims that the pigeons pecked holes in the screens. She explained that pigeons do not "attack screens". That is because they do not have sharp beaks (e.g. like a parrot) and so are not capable of puncturing a screen. In any event, she would not allow such behaviour.
24. While I am not wholly convinced by the Tenant's evidence on that point, the Landlords could not direct me to definitive or compelling evidence to show that the window screen damage was caused by the birds pecking or clawing or, alternatively, by the Tenant.
25. The Landlords must also prove that it is probable that the Tenant wilfully or negligently caused smoke damage to the house and that pigeon-related pathogens from pigeon

excrement, feathers or dander contaminated the house, constituting a biohazard that needed to be addressed.

26. I am unable to accept the Landlords' opinions about the scope of the alleged damage as evidence. No other evidence, such as photographs and expert or professional testimony, was presented to support their claim.¹
27. Given the lack of corroboration, I find that the Landlords have not established, on the balance of probabilities, that the Tenant or her pets were the cause of undue damage to the rental unit or residential complex.
28. I have also considered that the repair quotes do not explain why the estimated costs are reasonable and necessary for repair. The Landlords referred to quotes they obtained from Service Master Restoration (\$6,875.00) and BT Construction Group/First General Restoration Services (\$3,039.30) to perform general cleaning and disinfection services, the expense of which greatly exceeds the Landlords' \$1,500.00 claim in the application.
29. They also provided quotes from Superior Comfort, DNM Heating and Cooling, Wardlaw Heating and Air Conditioning for duct cleaning and furnace maintenance ranging between \$148.30 and \$1,155.00. They provided an estimate from Canadian Tire for materials needed to replace basement window screens (\$351.00). None of these draw the nexus between the alleged damage and the specific repair required.
30. Without those particulars, the Tenant would not be able to make an informed choice within the voiding period about the whether the expense was reasonable and whether to pay the Landlords the cost of the repairs claimed.
31. Based on the evidence and submission of the parties at this hearing and upon reviewing the documentary evidence and testimony presented, I am satisfied that the Tenant voided the N5 notice, on the basis that the Landlords did not produce evidence to the contrary. I am neither persuaded that the Landlords have sufficiently proven the damage claim.
32. The Landlords' application cannot, as a result, succeed.

It is ordered that:

1. The Landlords' application is dismissed.

February 6, 2026
Date Issued

Elle Venhola
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.

¹ See *McNeely v. Montigny*, 2021 CanLII 142316 (ON LTB),