



Order under Section 69 Residential Tenancies Act, 2006

Citation: Martens v Lauzon, 2026 ONLTB 12278

Date: 2026-02-05

File Number: LTB-L-083158-25

In the matter of: APARTMENT 2, 28 CHAPEL ST S
THOROLD ON L2V2C6

Between: Robert Martens
Donna Martens
Landlords

And

Suzanne Lauzon
Tenant

Robert Martens and Donna Martens (the 'Landlords') applied for an order to terminate the tenancy and evict Suzanne Lauzon (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 number of persons living in the unit on a continuing basis is more than permitted by health, safety or housing standards;

This application was heard by videoconference on January 27, 2026.

The Landlords and the Tenant attended the hearing. The Tenant consulted with Tenant Duty Counsel prior to the hearing.

Determinations:

1. For the reasons set out below, the Landlords' application is dismissed.
2. The Landlords' application is based on two N5 notices of termination. The Board's records indicate that the Landlord did not file a Certificate of Service with the Board immediately after or within five days of the filing the L2 application. The Landlords believed the Certificate of Service was filed. However, when prompted, the Landlord could not locate it nor the date on which it was filed with the Board.
3. Rules 4.4 and 4.5 of the LTB's Rules of Procedure state:

- 4.4 Where the LTB permits an application to be filed using TOP, any related Notice of Termination, affidavit, or Certificate of Service must be also uploaded at the time of filing.
- 4.5 If the Notice of Termination, affidavit or Certificate of Service cannot be uploaded at the same time as the application is filed using TOP, they must be filed with the LTB within 5 calendar days of filing. Failure to file these documents in time may result in administrative dismissal of the application.

4. Further, the first N5 Notice was served pursuant to section 64(1) of the *Residential Tenancies Act, 2006* (the 'Act') which states:

64 (1) A landlord may give a tenant notice of termination of the tenancy if the conduct of the tenant, another occupant of the rental unit or a person permitted in the residential complex by the tenant is such that it substantially interferes with the reasonable enjoyment of the residential complex for all usual purposes by the landlord or another tenant or substantially interferes with another lawful right, privilege or interest of the landlord or another tenant.

(2) A notice of termination under subsection (1) shall,

- (a) provide a termination date not earlier than the 20th day after the notice is given;
- (b) set out the grounds for termination; and
- (c) require the tenant, within seven days, to stop the conduct or activity or correct the omission set out in the notice. [Emphasis added]

- 5. As explained at the hearing, the Landlords' application cannot proceed for two reasons; first the Landlords did not file a Certificate of Service for the first N5 Notice and secondly, the first N5 Notice does not indicate that the Tenant has seven days to void the notice by stopping the conduct or activity or correcting the omission nor does it indicate the Tenant has seven days to reduce the number of people in the rental unit.
- 6. Having found that the first N5 Notice is fatally flawed and therefore invalid, the Landlords cannot now rely on the second N5 Notice to terminate the tenancy.
- 7. Section 68(1) of the Act sets out:

A landlord may give a tenant notice of termination of the tenancy if,

- (a) a notice of termination was given to the tenant under section 62, 64 or 67; and
- (b) more than seven days but less than six months after the notice mentioned in clause (a) was given to the tenant, an activity takes place, conduct occurs or a situation arises that constitutes grounds for a notice of termination under section 60, 61, 62, 64 or 67, other than an activity, conduct or a situation that is described in subsection 61 (1) and that involves an illegal act, trade, business or occupation described in clause 61 (2) (a). [Emphasis added]

8. The Landlords did not satisfy the statutory pre-condition for serving a second N5 notice under section 68 of the Act that being service of a valid N5 notice under section 62 of the Act. Additionally, the original second N5 notice discloses no new breaches of the Act, and it appears to be invalid because it contains the same allegations as the first N5 Notice.
9. For the reasons above, the Landlords' application shall be dismissed.
10. The Landlords argued that the Board ought to have notified them of the errors in the N5 notices and of their failure to file the Certificate of Service with the application before the hearing was scheduled. The Landlords were advised that the preparation and service of notices of termination, as well as the filing of applications, are the responsibility of the landlord. Information regarding the filing requirements for both landlords and tenants is readily available on the Board's website and during the filing process. The Landlords were further advised that, because the application was not dismissed on its merits, they may serve a new, valid notice on the Tenant and file a new application. It was also suggested that the Landlords obtain legal advice before proceeding.

It is ordered that:

1. The Landlords' application is dismissed.

February 5, 2026
Date Issued

Susan Priest
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.