



Order under Section 69 / 88.1 Residential Tenancies Act, 2006

Citation: 1034523 ONTARIO LTD. v Gaidye, 2026 ONLTB 15853

Date: 2026-02-20

File Number: LTB-L-051309-25

In the matter of: 202, 1475 KINGSTON RD
SCARBOROUGH ON M1N1R5

Between: 1034523 ONTARIO LTD. Landlord

And

Graham Gaidye Tenant

1034523 ONTARIO LTD. (the 'Landlord') applied for an order to terminate the tenancy and evict Graham Gaidye (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

1034523 ONTARIO LTD. (the 'Landlord') also applied for an order requiring Graham Gaidye (the 'Tenant') to pay the Landlord's reasonable out-of-pocket expenses that are the result of the Tenant's conduct or that of another occupant of the rental unit or someone the Tenant permitted in the residential complex. This conduct substantially interfered with the Landlord's reasonable enjoyment of the residential complex or another lawful right, privilege or interest.

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

The Landlord's Legal Representative Dakk Marrello, the Tenant and the Tenant's Legal Representative Brenden Varty attended the hearing.

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. However, the tenancy between the Landlord and the Tenants shall continue if the Tenants meet the conditions set out in this order.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On June 10, 2025, the Landlord gave the Tenant an N5 notice of termination deemed served on June 15, 2025. The notice of termination alleges that on June 1, 2025 the

Tenant or someone the Tenant permitted in the rental unit left the water running causing the sink to overflow causing a flood in the Tenant's unit and water to leak to the unit below causing damage. I am satisfied that the N5 notice provided the Tenant with sufficient details about what needed to be repaired or replaced.

4. In accordance with section 62(3) of the *Residential Tenancies Act, 2006* (the 'Act'), the Tenant had an opportunity to void the N5 notice by repairing or replacing the damaged property or paying the landlord the amount of \$5,000.00 to repair or replace a damaged property during the seven day voiding period. There was no evidence that the Tenant voided the N5 notice of termination.
5. Ahilan Rasanyagam provides maintenance services for the Landlord at the residential complex and testified that on June 1, 2025 he received a call from the tenant in unit 102 indicating that his ceiling was leaking water.
6. He attended at unit 102 and observed water leaking from the ceiling. He proceeded to attend at the Tenant's unit located above unit 102 with the leaking ceiling.
7. Upon attendance at the Tenant's unit he stated he was provided entry to the unit where he observed a sink full of dishes and the kitchen sink overflowing. He proceeded to turn the water off.
8. As a result of the leak the drywall in the ceiling of unit 102 as well as the flooring was damaged and required repair and replacement. A video of water leaking from the ceiling of unit 102 was tendered into evidence.
9. The Landlord also submitted an invoice from Ventura Property Management Inc. indicating that unit 102 below the Tenant's unit required repairs to the drywall of the ceiling and kitchen floor due to water damage.
10. The Tenant disputes that he left the sink running and claims that there had been issues with the plumbing of his kitchen sink.
11. The Tenants testimony regarding his recollection of June 1, 2025 was inconsistent in that he initially testified that he could not recall if Ahilan Rasanyagam attended his unit on that date. He later testified that he did attend, but he did not enter his unit, and later indicated he did come into the unit.
12. The Tenant further stated that his unit has water damage to the ceiling and walls and the alleged water damage to the unit below is unrelated to this flooding incident.

Law/Analysis

13. Subsection 62(1) of the *Act* provides:

62(1) a landlord may give a tenant notice of termination of the tenancy if the tenant, another occupant of the rental unit or a person whom the tenant permits in the residential complex willfully or negligently causes undue damage to the rental unit or the residential complex.

14. To succeed on this claim, the Landlord must establish the following:

- (a) physical damage to the rental unit or the residential complex;
- (b) physical damage that is “undue”, meaning not normal wear and tear; and
- (c) physical damage that is willfully or negligently caused by the tenant, another occupant of the rental unit or a person whom the tenant permitted in the residential complex.

15. On an application before the Board the person who alleges any particular incident or event occurred has the burden of leading sufficient evidence to establish that it is more likely than not that their version of events is true. In this case, that burden falls on the Landlord. For the reasons that follow, the Board finds that the Landlord has led sufficient evidence to establish that the Tenant negligently damaged the ceiling and floor in the rental unit below.
16. Upon review of the evidence and submissions, I am satisfied that the damage incurred to the ceiling and floor in unit 102 below the Tenant’s as result of the Tenant’s negligent actions. I say this as on balance of probabilities I prefer the evidence of the Landlord’s witness Ahilan Rasanyagam who testified that on June 1, 2025 he attended the Tenants rental unit and observed an overflowing kitchen sink with the water running. As indicated the Tenants evidence was inconsistent and unreliable regarding the occurrences and his recollection of that day.
17. Given the evidence and submissions before the Board, I am satisfied, on a balance of probabilities, that the Landlord has established that the Tenant negligently caused undue damage to the rental unit below.

Damages Claim

18. Included in the Landlord’s L2 application is a claim for compensation in the amount of \$5,000.00 for damages to the unit below the Tenants.
19. Subsection 89(1) of the *Act* says:
- A landlord may apply to the Board for an order requiring a 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 the tenant, another occupant of the rental unit or a person whom the tenant permits in the residential complex willfully or negligently causes undue damage to the rental unit or the residential complex and the tenant is in possession of the rental unit.
20. In order for an application for compensation for damages made pursuant to subsection 89(1) of the *Act* to succeed, a landlord must establish the following:
- (a) there was property damage to the rental unit or residential complex;
 - (b) the damage is “undue” meaning that it is not normal wear and tear and it is not insignificant; and

(c) the damage was a result of wilful or negligent conduct by the Tenants, occupants or guests.

21. In this context, I take the word “property” to refer to physical objects like the walls, ceilings, floors, appliances and fixtures in a residential complex.
22. If all of these factors are met, then the Board can award the Landlord the reasonable costs of repair or the replacement cost if it is not reasonable for the damage to be repaired.
23. The Landlord adduced a video showing a leak in the ceiling of the unit below the Tenant, as well as testimony from Ahilan Rasanyagam regarding the events from June 1, 2025. I am satisfied on a balance of probabilities that the damage was caused as a result of the Tenant’s negligence.
24. I accept that the Landlord will incur reasonable costs to repair the unit below the Tenant in the amount of \$5,480.50. Although the Landlord only seeks compensation of the \$5,000.00 as claimed in their N5 Notice of Termination.
25. The Landlord has also incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

Relief from Eviction

26. The Landlord seeks termination of the tenancy due to the damages caused by the Tenant’s negligence.
27. The Act is remedial legislation and the courts have determined that evicting a tenant is a remedy of last resort. In the cases of *Sutherland v. Lamontagne*, [2008] O.J. No. 5763 (Div. Ct.) and *Paderewski Society v. Ficyk*, [1998], the Divisional Court stated,

“To put somebody out of their home must, in my view, call for clear and compelling circumstances that it’s no longer possible for the arrangement to continue.”
28. 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. The Tenant shall have an opportunity to preserve the tenancy by paying to the Landlord its reasonable costs to repair or replace the damage to the unit below the Tenant as well as the Landlord’s costs of this application on or before March 31, 2026.

It is ordered that:

1. The tenancy between the Landlord and the Tenant continues if the Tenant meets the conditions set out below.
2. The Tenant shall pay to the Landlord \$5,000.00, which represents the reasonable out-of-pocket expenses the Landlord has incurred or will incur as a result of the substantial interference.

3. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
4. The total amount the Tenant must pay the Landlord on or before March 31, 2026 is \$5,186.00.
5. If the Tenant fails to comply with the conditions set out in paragraph 4 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.
6. If the Tenant does not pay the Landlord the full amount owing on or before March 31, 2026, the Tenant will start to owe interest. This will be simple interest calculated from April 1, 2026 at 4.00% annually on the balance outstanding.

February 20, 2026
Date Issued

Sean Ramage
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.