



Order under Section 69 Residential Tenancies Act, 2006

Citation: 1000484164 Ontario Limited v Cartagena Cabrera, 2026 ONLTB 17424

Date: 2026-03-02

File Number: LTB-L-077061-25

In the matter of: 202, 1082 ST CLAIR AVE W
TORONTO ON M6E1A7

Between: 1000484164 Ontario Limited Landlord

And

Nery Cartagena Cabrera Tenant

1000484164 Ontario Limited (the 'Landlord') applied for an order to terminate the tenancy and evict Nery Cartagena Cabrera (the 'Tenant') because the Landlord requires possession of the rental unit in order to demolish the unit.

This application was heard by videoconference on February 17, 2026. Both parties filed written closing submissions.

The Landlord's agent Vince Alaino, the Landlord's representative Mryam Sarkis, the Tenant, and the Tenant's representative Cindy Imon attended the hearing.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the tenancy is terminated March 31, 2026.

Failure to Disclose a Previous N13 Notice

2. The Tenant requests that the application be dismissed because the Landlord failed to disclose a previous N13 notice of termination as required by section 71.1(3) of the *Residential Tenancies Act, 2006* ('the Act'). That request is denied for the following reasons.
3. The Landlord submits that the N13 the Landlord failed to disclose is a notice that was served on the Tenant's neighbour and is related to the same construction project. The Tenant submits that there is also an additional undisclosed notice beyond that notice, but the Tenant did not provide a copy of that notice or call as a witness the person who allegedly received that notice. The Landlord denies that there are any other undisclosed

N13 notices. On a balance of probabilities, I'm only satisfied that there is one undisclosed N13 notice.

4. I find that the Landlord made a clerical error in failing to disclose the N13 notice on the application. The Landlord alerted the Tenant to the other N13 notice in the Landlord's disclosure package. The Landlord was therefore not trying to hide the information.
5. While the Tenant provided caselaw that shows that the Board has dismissed applications for failing to disclose previous notices of termination, there is no section of the Act that mandates that an application must be dismissed in these circumstances. Section 71.1(4) says that the Board shall refuse to accept the application for filing. However, the application was already accepted for filing.
6. In *Miller Estate v. Arguelles*, 2025 ONSC 112 the Divisional Court found that there was no error in law made by the Board when it did not dismiss an application for failing to comply with section 71.1(3). The Court notes once the application is accepted for filing, there is nothing that prohibits amendment to include additional notice information and that the Board's Rules of Procedure anticipate amendments to applications provided the amendment is appropriate, would not prejudice any party, and is consistent with a fair and expeditious proceeding.
7. There is no prejudice to the Tenant from the Landlord's initial failure to disclose the other N13 notice. The Tenant's representative agreed that the Tenant has been aware of the other N13 notice since late October 2025. Additionally, the basis of the Landlord's application is that they want to combine two units into one. That the Landlord had to take steps to secure vacant possession of the other tenanted unit is readily apparent. I'm not satisfied that the Tenant's ability to prepare for the hearing or challenge the good faith nature of the Landlord's intent was impacted by the initial failure to disclose the previous N13 notice.
8. The Landlord's request to amend their application to include disclosure of the previous N13 notice is granted. The request was made well in advance of the hearing, is only to correct a clerical error, has been made in good faith, and the Tenant will suffer no prejudice from the amendment.

The Application

9. On May 31, 2025, the Landlord gave the Tenant an N13 notice of termination ('N13') with the termination date of September 30, 2025, the Landlord claims vacant possession of the rental unit is required for demolition.

Compensation and Permits

10. There is no dispute that the Landlord paid the Tenant \$3,744.39 which is equivalent to three months rent before the date of termination in the notice.
11. I am satisfied that the Landlord has obtained the necessary permits for this work. The Landlord provided a copy of the building permit that has been issued. The Landlord also has a plumbing permit. I accept the Landlord Agent's testimony that no further permits or authorities are required to do the work.

Does the Intended Work Constitute Demolition?

12. The Landlord described the intended work as the following on the N13 notice:

The entire unit will be demolished and parts of the demising wall to the adjacent unit will be removed, which will irrevocably increase the size of the unit. New beams will be inserted for support. The interior walls will also be demolished and the number of bedrooms in the unit will also be irrevocably changed to three bedrooms.

13. The Landlord's agent is a shareholder of the family held corporation that owns the rental complex. His testimony about the intended plans for the rental unit echoed what was written on the notice. The Landlord's agent testified that the rental unit is being merged with another unit. The Landlord's agent testified that the plan is to merge the rental unit which is small and only about 590 square feet with the larger neighbouring unit that is approximately 1,100 square feet unit to make one large single-family dwelling. The combined larger unit will be able to benefit from the large terrace connected to the other unit. The Landlord's agent testified that the purpose of the project is to create a space suitable for family living, to meet market demands, that there is less turnover in larger units, and that this is to being done to address transaction costs and operation efficiencies.

14. In *Noffke v. Deol*, 2024 ONSC 5387, ('*Noffke*') the Court confirmed that for the purpose of a notice given under s. 50(1)(a) of the RTA, the correct definition of "demolition" comes from the decision in *Two Clarendon Apartments Limited v. Sinclair*, 2019 ONSC 3845:

In a situation where the rental unit continues to exist, albeit in an extremely altered form, it is possible for the tenant to exercise a right of first refusal, because the rental unit is still there: the tenant may move back and continue the tenancy. In a situation where the rental unit is gone, it is not possible for the tenant to exercise a right of first refusal: the rental unit is no longer there and so the tenant cannot move back. The fact that the Act distinguishes renovations and demolitions by the tenant's right of first refusal shows that the intention of these sections of the Act is to preserve tenancies where it is possible to do so.

Accordingly, a project will be defined as a renovation under the Act in a case where it is possible for the tenant to move back into the unit and a project will be defined as a demolition where it is not possible for the tenant to move back into the unit.

15. In *Noffke* the Court also said the following at paragraph 18:

Next, the concept of re-occupying the new premises may give rise to issues involving a second tenant. The other tenant who objected at the LTB is not seeking to overturn the Merits Decision and re-occupy. However, this does not mean that the appellant would have the right to occupy what he says is someone else's unit. The appellant's position is that someone could move in and they could be "tenants in common" in the new premises but the appellant does not address how that would work. In any event, most significantly, the appellant is really asking this Court to permit a challenge to findings of fact of the LTB, for which there is no right of appeal.

16. I find that the proposed work meets the definition of demolition. The rental unit will no longer exist. The footprint, size, and number of rooms, will be changed. The resulting unit will bear no resemblance, spatially, functionally or structurally, to the current 590 square foot unit. As in *Noffke*, multiple tenancies are being eliminated and replaced with one new unit, which removes any possibility of re-occupancy. The Tenant cannot displace the other neighbouring tenant's entitlement. Two different tenants cannot have the right of first refusal over the same unit. As such neither will cease to exist. It is not possible for the Tenant to move back into the rental unit after the work is done and therefore the proposed work is a demolition not a renovation.

Good Faith

17. The Tenant disputes the good faith nature of the Landlord's intent. The Tenant submits that the application is retaliatory for a tenant application (LTB-T-032269-25) she filed April 18, 2025. That application is about a leak/hole in the bathroom ceiling and a stove top burner that does not work.
18. The Tenant also raised that the parties had a dispute about a deposit, in March 2025 there was a discussion about the Landlord adding services if the rent is increased, on May 29, 2025 the Landlord threatened to kick out the Tenant's occupant, that the Landlord has falsely claimed rent was paid late, issues about entries into the rental unit, that the Landlord was untruthful about what they said was a reason for an inspection, that a different unit than the two being combined pursuant to this application was posted for rent around the time the Tenant got the N13 notice, the Landlord waited for some time after serving the N13 notice to apply for a building permit, that the Landlord is harassing the Tenant, concerns about the tone and content of text messages sent between the parties, and that the Landlord has engaged directly with the Tenant when they should have been speaking to their legal representative.
19. For the following reasons I find that the Landlord in good faith intends to demolish the rental unit.
20. I found the Landlord's agent to be a credible witness. I accept that he is being honest that his family intends to undertake the work and that they want to ensure the neighbourhood they grew up in, and in which the rental unit is located, is revitalized. I accept his testimony that his family bought two buildings in 2023 with the plan to redevelop both.
21. The Landlord submitted emails to show that he met with an architect in 2023 to discuss plans for the rental complex.
22. I do not find that the Landlord's application is retaliatory or in bad faith. The Landlord had a plan to redevelop the rental complex before they even met the Tenant. I'm not satisfied that events that happened after the purchase of the property demonstrate that the Landlord has a bad faith intent.
23. The Landlord also provided a written statement from Frank Imeneo. Mr. Imeneo states that he is a general contractor, that he attended the rental unit on February 18, 2023 to assess the unit for redevelopment, and on January 15, 2025 to commence detailed planning, that

he entered into a contract with the Landlord to outline the scope of work, that an invoice was issued, and that a deposit was paid. While the written statement of Mr. Imeneo is hearsay, I have no concerns about its reliability nor any evidence to support that the statement contains untrue facts. The Landlord's oral testimony is also that he hired a contractor. The written statement of Mr. Imeneo is not central to my decision. It is just one of many pieces of evidence that support that the Landlord is actually going to follow through with their stated intention to demolish the rental unit.

24. I accept the Landlord's evidence that his family has undertaken similar work in the neighbouring building. The Tenant argues in their written submissions that a different corporation owns the neighbouring building. Even if true, I accept that the Landlord's family is involved in both buildings. That they have undertaken similar work before supports that they will undertake the work in this building.
25. The Landlord has both a building permit and architectural design plans. There is no evidence that supports that these are fraudulent documents. I do not think the Landlord spent resources to secure these documents as a ruse to evict the Tenant. The Landlord has these documents because they intend to carry out the work.
26. I accept the Landlord's agent's testimony that the neighbouring tenant was served with an N13 and that since they vacated the rental unit has remained empty. That the Landlord has not re-rented the unit also supports that they intend to do the work.
27. The Landlord's Agent said in one recorded conversation with the Tenant that she is great and he is not looking to have people move out. That gives me some concern about the Landlord's good faith intent. However, ultimately when I view the evidence as a whole (including but not limited to that the Landlord has had an intention since 2023 to redevelop the rental complex, has completed a similar project, has a permit, has design plans, has left empty the other unit involved in the project) it all supports the Landlord's good faith intent. That one comment may have just been an off-hand comment. It's not entirely clear to me what the Landlord meant with that comment and I do not find it determinative of the application.

Mandatory Refusal of Eviction

28. The Tenant raises in her written submissions that the Landlord is in serious breach of their responsibilities under the Act and that therefore the eviction must be refused pursuant to section 83(3)(a) of the Act. The Tenant raised lots of issues at the hearing in the context of trying to demonstrate the Landlord's bad faith intent and did not make clear at either the hearing or in the written submissions which of those issues they are alleging amount to a serious breach of the Act.
29. The Tenant may be referring to the claims in their T6 application regarding the washroom disrepair and stove element, the claim that the Landlord threatened to remove the Tenant's spouse from the rental unit, a claim that the Landlord is harassing them, or the Tenant might be referring to something else. Regardless I'm not satisfied that any of the issues raised at the hearing rise to the level of serious breach. Section 83(3)(a) only applies to the most serious breaches of the Act, for example a landlord turning off a tenant's heat in the winter.

30. Additionally, for an issue to be serious it must be ongoing at the time of the hearing (*MacNeil v 976445 Ontario LTD*, [2005 O.J No.6363]. The Tenant states in their written submissions that on April 27, 2025, the Landlord completed the washroom repair referenced in the T6 application. The Tenant's claim about the Landlord threatening to remove their spouse is something that happened in the past and is not an ongoing issue.
31. The Tenant also submits that the reason for the application being brought is that the tenant has attempted to secure or enforce his or her legal rights and that therefore eviction must be refused pursuant to section 83(3)(c) of the Act. For the reasons already provided above I do not find that this application was brought for retaliation for anything the Tenant did. I accept the Landlord's agent that they formed the intention to demolish the rental unit before they even met the Tenant. The Landlord provided an abundance of supporting documentation, permits, design plans, statement of a contractor etc. that supports that the reason they want to evict the Tenant is to do the demolition not because of any exercise of the Tenant's rights.

Relief from eviction

32. 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 postpone the eviction until March 31, 2026 pursuant to subsection 83(1)(b) of the Act.
33. The Landlord asks that the tenancy be terminated 11 days after the order is issued. The Landlord provided a written statement from their contractor that says that if construction cannot commence by March 9, 2026, they will be required to charge the Landlord a premium cost to accelerate the work in order to meet the building-permit expiry date, subject to any extension granted by the City of Toronto. The contractor also states that due to the ongoing delays and uncertainty surrounding this project, they will not be able to continue with this job after April 1, 2026.
34. It is unreasonable to expect the Tenant to move in 11 days. The Tenant has lived in the rental unit since 2014, has a serious medical condition, adult children and grandchildren who live in the area, has been under stress since getting the eviction notice, is taking medication for depression, may end up paying more than what she is currently paying, and her husband is not working. Additionally, 11 days from the order is already past the date that the Landlord's contractor says will result in additional costs. The Landlord's timeline is unreasonable and won't be met regardless of whether relief from eviction is provided.
35. The Landlord submits that the Tenant has known for a long time about their plans and that justifies not providing any delay of eviction. A tenant is entitled to wait for a notice of termination, hearing, and Board order if they wish to challenge an eviction. To find otherwise would be inconsistent with the purpose of the Act to protect tenants from unlawful evictions. Even if the Tenant had an inkling that an N13 might be coming, her knowledge about a possible eviction would only have been crystalized when she actually received the notice. This is a no-fault eviction which means that the Tenant is not being evicted for anything she has done. It would be unfair in these circumstances to not give the Tenant time to find new living accommodations simply because she wanted to exercise her rights under the Act and wait for a hearing before moving out.

36. However, I have declined to postpone the termination of the tenancy any further than one month because doing so will be unfair to the Landlord. The Landlord has been waiting a significant time to undertake the project. I accept the Landlord's testimony that he has already retained the services of a contractor to do the work, a contractor he may now have to part ways with, and that any further delay may significantly increase the costs. The Landlord also has a permit he says will expire in August 2026. While the Landlord did not present an exact timeline for the project, I accept that it will take some time and needs to start before the permit expires. There may be the possibility of extending the permit, but I accept that the logistical challenges and costs that will be experienced from the Landlord from any further delay will be unfair.

Costs

37. Both parties ask for costs for the proceedings. Costs are rare at the Board. I'm not satisfied that the conduct of either party was unreasonable such that a cost award is justified.

Other Requests Made by the Tenant

38. The Tenant asks for numerous orders and determinations be made that include that the Landlord and their representative acted outside the Law Society's Rules of Professional Conduct, that the Landlord committed an offence under the Act, that the Landlord be fined, and that Landlord be ordered to pay compensation in accordance with a City of Toronto by-law. Those requests are outside the scope and jurisdiction of the application before me and therefore will not be awarded.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before March 31, 2026.
2. If the unit is not vacated on or before March 31, 2026, then starting April 1, 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 April 1, 2026.

March 2, 2026
Date Issued

Amanda Kovats
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 October 1, 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.