



Order under Section 69 / 89 Residential Tenancies Act, 2006

Citation: Moraghan v Payne, 2026 ONLTB 22766

Date: 2026-03-20

File Number: LTB-L-065760-25

In the matter of: A, 53 Drummond Street East
Perth ON K7H1G3

Between: Louise Moraghan Landlord

And

Pam Payne Tenants
Kody Payne

Louise Moraghan (the 'Landlord') applied for an order to terminate the tenancy and evict Pam Payne and Kody Payne (the 'Tenants') because:

- 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.

Louise Moraghan (the 'Landlord') also applied for an order requiring Pam Payne and Kody Payne (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 Tenant, another occupant of the rental unit or someone the Tenants permitted in the residential complex.

This application was heard by videoconference on November 18, 2025.

The Landlord, the Landlord's Witnesses, Spencer Kell and Curtis Hutt, the Tenants' Legal Representative Linda Tranter and the Tenant, Pam Payne, attended the hearing.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy in the application, however I find that it is appropriate in all of the circumstances to grant relief from eviction to the Tenants under s. 83(1) of the

Residential Tenancies Act, 2006 (the 'Act'). Therefore, the tenancy between the Landlord and the Tenants will continue subject to the conditions outlined below.

2. The Tenants were in possession of the rental unit on the date the application was filed.
3. On July 2, 2025, the Landlord gave the Tenants an N5 notice of termination, with a termination date of July 23, 2025. The notice of termination alleges the Tenants or someone visiting have wilfully or negligently damaged the rental unit or residential complex, specifically on May 14, 2025 and May 16, 2025 by clogging the line that runs directly from the Tenants lavatory to the main drain, with the second blockage being excessive in the drain that had been cleaned and cleared on May 14, 2025, a plumber was called to repair the clogged drain and the plumber found baby wipes resulting in the clogging which was caused by the tenants or a guest.
4. The Landlord testified that the Tenants contacted her regarding a blocked lavatory on May 14, 2025, upon the plumber's arrival, it was determined that the lavatory main drain line was blocked. The Landlord testified that the plumbing drain line from the lavatory is a downward sloped horizontal branch that runs directly into the main plumbing line. The plumber was able to remedy the issue of the block by removing the lavatory and unclogging the block and reinstalling the lavatory. The cost for the repair was \$1,118.70 to plumbing professionals and \$100.00 to Home Depot for rental of tool that was required to unclog the drain that could reach 100 feet.
5. The Landlord further testified that the Tenants contacted her regarding the nonfunctional lavatory issue again on May 16, 2025, and upon the plumber's arrival the lavatory in the rental unit, specifically the horizontal line leading to the main sewer line, which had two days prior being unplugged was blocked with an excessive amount of "wet wipes." This was determined to be the case by the plumber after the plumber cut and replaced a 6 ft section of the horizontal line leading the main plumbing line and removing the wet wipes. The cost of this repair was \$2,034.00.
6. The Landlord further testified that the lavatory had to be removed and re-installed and drained, and the blockage located in the drain dealt with on two occasions within a two-day span. The Tenants were issued a charge back and notified they would be responsible in an amount of \$3,252.70 for these charges, which has yet to be paid to date. The Landlord further submitted evidence of the charges and the work completed by the plumber, and photographic evidence of the baby wipes that caused the blockage and were removed on May 16, 2025. The reason for the charge back was that the plumber determined the leak was caused due to flushing of bay wipes in the lavatory. Therefore, the Tenants did not void the N5 notice of termination in accordance with s.62(3) of the *Residential Tenancies Act, 2006* (Act).
7. The Landlord further testified that she believed this damage was done by the Tenants willfully given the upcoming Board proceedings on May 20, 2025, and May 22, 2025 at that time.
8. The Landlord's witnesses, Curtis Hutt (CH) the plumber who completed the repairs on the two occasions testified in his professional opinion the blockage was caused by baby wipes that were removed on May 16, 2025, when he had to cut and replace the plumbing line from the Tenants' lavatory which connected to the main plumbing line of the residential complex, and what was removed from the cut plumbing line, was an excessive amount of

bundles of wet wipes, many buckets in fact, which could not possibly accumulated over two days when the line was unclogged on May 14, 2025 using a plumbing chain breaker/auger.

9. CH further testified that the horizontal branch which was clogged and led to the main line was only connected to the Tenants lavatory, hence it was clear that the blockage was not coming from above or below in the main line. Hence in his professional opinion given the sheer quantity of wet wipes was alarming and purposely done to cause damage by either the Tenants or another individual using their lavatory.
10. The Landlord's Witness Spencer Kell, the proprietor of the plumbing company who issued the invoices, confirmed the costs of the repairs that the Landlord was required to pay for the emergency plumbing services completed on the two occasions of May 14, 2025, and May 16, 2025
11. The Tenant, Pam Payne testified that she does not use baby wipes, nor does she ever purchase them as she has no need for them and inferred the wipes may have been coming from another rental unit, however there was no evidence to substantiate this claim.
12. I am satisfied from the testimony of the Landlord, the Landlord's witnesses and the Tenant Pam Payne, that the Tenants and or another occupant of the rental unit or a person whom the Tenants permitted in the residential complex willfully or negligently caused undue damage by clogging the lavatory in their unit due to the use of baby wipes on a balance of probabilities.
13. The Landlord has incurred reasonable costs of \$3,252.70, as submitted into evidence, to repair the damage due to the flushing of baby wipes in the lavatory and is entitled to receive \$3,252.70 from the Tenants. I am further satisfied that these costs were incurred in this amount, and that they represent reasonable out of pocket expenses incurred as a result of the damage.
14. The Landlord sought a standard eviction.
15. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
16. Having considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act, I 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.
17. Specifically, given the Tenants have been long term Tenants and the personal, financial and medical circumstances of the Tenants and other occupants of the rental unit.
18. 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."
19. This order, with specific conditions that are required for the Tenants to comply with to continue their tenancy.

20. The Tenants must choose between keeping their home by complying with the conditions of this order, or they could inevitably face eviction and have to relocate.
21. Although this order does not specifically address each piece of evidence individually or reference all of the testimony, I have considered all of the evidence presented at the hearing and all of the oral testimony when making my determinations.
22. This order contains all of the reasons for the decision within it and no further reasons will be issued.

It is ordered that:

1. The tenancy between the Landlord and the Tenants continues if the Tenants meet the condition set out below.
2. The Tenants shall pay the Landlord \$3,252.70, which represents the reasonable costs of repairs incurred by the Landlord due to the damaged plumbing/lavatory, on or before August 31, 2026.
3. If the Tenants fail to comply with the condition set out in paragraph 2 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.
4. The Tenants shall also pay to the Landlord \$186.00 for the cost of filing the application.
5. The total amount the Tenants owe the Landlord \$3,438.70
6. If the Tenants do not pay the Landlord the full amount owing on or before August 31, 2026, the Tenants will start to owe interest. This will be simple interest calculated from September 1, 2026, at 4.00% annually on the balance outstanding.

March 20, 2026
Date Issued

Panagiotis P. Roupas
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.