



**Order under Section 69 / 89
Residential Tenancies Act, 2006**

Citation: MONSTER DUCT INC. v ECKERT, 2026 ONLTB 26956

Date: 2026-04-02

File Number: LTB-L-056546-25

In the matter of: 1, 169 CHAPEL ST
KITCHENER ON N2H2T8

Between: MONSTER DUCT INC. Landlord

And

KATHERINE ECKERT Tenant

MONSTER DUCT INC. (the 'Landlord') applied for an order to terminate the tenancy and evict KATHERINE ECKERT (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 Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

MONSTER DUCT INC. (the 'Landlord') also applied for an order requiring KATHERINE ECKERT (the 'Tenant') 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 Tenant permitted in the residential complex.

This application was heard by videoconference on October 30, 2025.

The Landlord's Agent, Muhammad Farrukh Khan, the Tenant's Legal Representative, Veronica Jimenez, the Tenant, and the Tenant's support person, Renee Biddiscombe, attended the hearing.

I have considered all of the evidence presented at the hearing and all of the oral testimony, and although I may not have referred to each piece of evidence individually or referenced all of the testimony, I have considered it when making my determinations.

Determinations:

Preliminary Issue: Disclosure

1. At the hearing, the Tennat's Legal Representative stated that the Landlord did not serve any disclosure on the Tenant seven days prior to the hearing in accordance with the Board's Rules of Procedure. The Tenant did not consent to disclosure on the Board's online portal, and thus any documents, videos, or photos the Landlord wished to rely on should not be admitted into evidence. The Landlord's Agent did not provide a sufficient reason as to why disclosure was not given to the Tenant prior to the hearing. Consequently, having considered Rule 19 of the Board's Rules of Procedure and in the interest of procedural fairness, the Landlord could not rely on any evidence not previously disclosed to the Tenant in accordance with the Board's Rules.

L2 Application:

2. As explained below, the Landlord has not proven on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation in the application. Therefore, the application is dismissed.

N5 Notice of Termination:

3. The Tenant was in possession of the rental unit on the date the application was filed. The Tenant's rental unit is in the basement of a 5-plex building, next to the laundry room.
4. On June 13, 2025, the Landlord gave the Tenant an N5 notice of termination deemed served that same day. The notice of termination contains the following allegations with respect to substantial interference and willful damage:
 - On May 30, 2025, the Tenant wilfully caused damage to the rental unit by using a hammer to break a large section of ceiling drywall in the bathroom, and one of the options to void the N5 notice was to pay the Landlord \$500.00 to repair the damaged property.
 - On May 30, 2025, the Tenant called the Ministry of Labour and Fire Department about an alleged asbestos hazard in the unit which resulted in a misleading inspection that delayed essential repairs.
 - The Tenant repeatedly denied entry on the following dates, despite being given lawful notice: April 24, 28 & 30, 2025 and June 11, 2025.
 - On April 30, 2025, the Tenant refused to clear out their storage locker, which was necessary to comply with the fire code.

Willful Damage:

5. Subsection 62(1) of the *Residential Tenancies Act, 2006* ('Act') states:

(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 wilfully or negligently causes undue damage to the rental unit or the residential complex.

6. The parties do not dispute that the Tenant notified the Landlord's Agent on the evening of May 30, 2025 that there was a leak in the bathroom above the toilet. The Tenant testified she heard and saw water dripping from the bathroom ceiling situated above the toilet, and she also saw bubbling paint and the ceiling warped in that area. The Tenant submitted a video taken that night showing the leak in the ceiling dripping heavily and the drywall ceiling bending under the weight of the water. The Tenant submitted a chain of email correspondence from May 30, 2025 to May 31, 2025 regarding the issue. The Tenant immediately emailed photos of the leaking ceiling to the Landlord's Agent on May 30, 2025, and the Landlord's Agent quickly replied for her to shut the water off from the laundry room and put a bucket underneath.
7. The Tenant confirmed she did not pay the Landlord the reasonable costs to repair the damage or make arrangements satisfactory to the Landlord within seven days after receiving the N5 notice of termination. Therefore, the Tenant did not void the N5 notice of termination in accordance with section 62(3) of the Act.
8. Having considered the evidence and submissions before me, I am not satisfied on the balance of probabilities that the Tenant wilfully or negligently caused the damage to the bathroom ceiling.
9. The leak in the bathroom ceiling was the origin of the issue which compromised the integrity of the Tenant's ceiling, as evidenced by the video. The leak on a balance of probabilities was related to the pipes connected to the upstairs tenant's bathroom, and the drywall that was missing was a result of the damage caused by the water and not due Tenant's actions.
10. The Landlord did not submit any evidence to show that the Tenant caused the leak in the ceiling except to say that he saw a hammer in the Tenant's bathroom when he attended the unit on June 2, 2025. Although the Landlord believes the Tenant is responsible for the damage because of the hammer seen in her bathroom and her May 30, 2025 email where she offered to fix the drywall, I am not satisfied that the drywall on the ceiling was damaged by the Tenant. This is supported by the following:
11. The Tenant testified that the hammer was in the bathroom because she had previously used it to hang her back massager on the wall to help with her impaired muscle function that forms part of her disabilities. There was also a preexisting maintenance issue because of a leak in the ceiling in the direct area where the drywall was missing and the ceiling had been warped. The Tenant reported the maintenance issue to the Landlord at the time the leak occurred via email at 10:41 pm and attached pictures of the water leaking and the warped, bubbling, and compromised ceiling. The Tenant also updated the Landlord a further three times showing the progression of the compromised ceiling, until it had fully collapsed by May 31, 2025, which revealed the insulation and what appears to be a large sewage pipe.

12. The Tenant's email at 7:32 am on May 31, 2025, also specifically asks the Landlord's Agent for permission to remove the ceiling drywall as it was about to collapse. The damaged drywall is located directly above the toilet, and the risk of safety was high given the deterioration of the ceiling from the water leak. I find it was unreasonable that the Landlord's Agent did not reply, and it ought not to have been a surprise the Tenant then sent an email at 12:45 pm, confirming that the ceiling had fully collapsed. The communication and photos exchanged between the parties shows the progression of a maintenance problem that was not caused by the Tenant. At every stage, the Tenant informs the Landlord's Agent about what is happening and even requests permission to remove the problematic drywall that was an imminent safety risk. Beyond the Landlord's Agent's speculative testimony, there was no other evidence to show that the Tenant took matters into her own hands. Therefore, I am not satisfied the Tenant willfully or negligently caused damage to the bathroom ceiling. Even if the Tenant removed some of the ceiling drywall, her actions were reasonable, and I do not find that the Tenant is responsible for undue damage. This portion of the N5 allegations is therefore dismissed.

Substantial Interference: Reporting Asbestos to Third parties

13. The parties do not dispute that the Tenant contacted the Kitchener Fire Department on May 31, 2025 regarding the collapsed bathroom ceiling and the concern that the exposed insulation was not up to Fire Code standards. The Tenant specifically references a concern over possible asbestos in her email to the Landlord's Agent on June 3, 2025. The Landlord's Agent testified that the municipal authority informed him they were not concerned with a possible asbestos issue in the property, and that as long as the hole in the ceiling was repaired, then there would be no need for an inspection. The Landlord argues that the Tenant had no grounds to believe there was asbestos in the building, and her accusation led to an unnecessary inspection and wasted time for the Landlord.
14. Based on the evidence before me, I am not satisfied that the Tenant substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant regarding the asbestos issue. The Tenant's email and testimony reflect what appears to be a genuine concern over the insulation material in the bathroom ceiling, and the Tenant is within her rights to bring such a concern to a government authority. The Landlord also did not present any evidence that the Tenant knew the allegation was false when she reported it. The Tenant has a right to protect her own interests, and, although the Landlord did not appreciate the third party involvement, the Landlord has not proven that the Tenant has substantially interfered with the Landlord's right, privilege or interest.
15. In any event, even if the Landlord was successful in proving there was reasonable cause to have issued the N5 notice, the Tenant made no further claims of asbestos to a government authority within seven days after receiving the N5 Notice. Therefore, this portion of the N5 notice was voided in accordance with s. 64(3) of the Act.

Substantial Interference: Denial of Entry to Rental Unit

16. The parties do not dispute that the Tenant denied the Landlord entry to the unit, as alleged in the N5 notice, on April 24, 28 & 30, 2025 and June 11, 2025, after being given lawful notice.
17. In order to void the N5 notice, the Tenant was required to grant the Landlord entry when given lawful notice within the seven-day voiding period from June 14, 2025 to June 20, 2025. The Tenant denied the Landlord access to her unit on June 16 and 18, 2025; however the parties agree that the Tenant permitted the Landlord to enter the unit to repair the bathroom ceiling on June 19, 2025, which was within the voiding period. As such, I find the Tenant voided this portion of the N5 notice in accordance with s. 64(3) of the Act.
18. The Landlord submitted that the Tenant resumed denying access to the unit after the voiding period; however, as the Tenant complied with the N5 notice voiding requirements for that allegation, any further refusals of entry by the Tenant after that period would be the subject of a new N5 notice.

Substantial Interference: Storage Locker

19. The parties do not dispute that the Fire Department attended the residential complex on April 7, 2025 for an inspection of the building, and the Tenant permitted them entry to the unit. They also do not dispute that the Tenant's storage locker itself was found to be in violation of the Fire Code, and an Inspection Order was issued to the Landlord requiring the Tenant to remove her belongings by April 21, 2025. A copy of the order was submitted at the hearing. On April 27, 2025, the Tenant emailed the Landlord's Agent for an accommodation extension, referring to her mental health treatment program. The Tenant also contacted the Fire Department about the extension and was told there would be no issue.
20. The parties do not dispute that the Tenant removed her belongings from the storage locker by June 4, 2025 and has not used the locker since then.
21. Based on the evidence before me, I find there was no reasonable cause of action to have issued the N5 notice for this allegation because the matter was resolved. There was nothing for the Tenant to void since the Tenant complied with fire safety requirements before the N5 notice was issued on June 13, 2025. As such, I do not find the Tenant substantially interfered with the Landlord's right, privilege, or interest because there nothing for the Tenant to correct as she stopped using the storage locker by June 4, 2025, prior to the N5 notice being served.
22. Although the Tenant wanted to raise her own issues about a discontinued or reduction in facilities, the issue was not properly before me and was not considered. The Tenant may, however, elect to file her own application, provided it is done in accordance with the Act.

Compensation for Damages:

23. Subsection 89(1) of the Act states:

89 (1) A landlord may apply to the Board for an order requiring a tenant or former 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,

(a) while the tenant or former tenant is or was in possession of the rental unit, the tenant or former tenant, another occupant of the rental unit or a person permitted in the residential complex by the tenant or former tenant wilfully or negligently causes or caused undue damage to the rental unit or the residential complex;

24. Given my findings in paragraphs 5-12 regarding section 62 of the Act, I find that the Landlord has not proven that the Tenant, another occupant of the rental unit or a person whom the Tenant permitted in the residential complex wilfully or negligently caused undue damage to the rental unit or residential complex. Therefore, the portion of the Landlord's application seeking damage in the amount of \$500.00 for reasonable costs to repair the bathroom ceiling is dismissed.

It is ordered that:

1. The application is dismissed.

April 2, 2026
Date Issued

Fotoula Hatzantonis
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.