



**Order under Section 69 / 88.1 / 88.2
Residential Tenancies Act, 2006**

File Number: LTB-L-094931-25

In the matter of: 44, 276 DUNSMURE RD
HAMILTON ON L8M0A2

Between: Dunsmure Developments Ltd.

Landlord

And

Cynthia Jardim
Harry Kemppi
David Livingstone

Tenants

Dunsmure Developments Ltd. (the 'Landlord') applied for an order to terminate the tenancy and evict Cynthia Jardim, Harry Kemppi and David Livingstone (the 'Tenants') because the Tenants, another occupant of the rental unit or someone the Tenants 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 Landlord also claimed compensation for each day the Tenants remained in the unit after the termination date.

Dunsmure Developments Ltd. (the 'Landlord') also applied for an order requiring Cynthia Jardim, Harry Kemppi and David Livingstone (the 'Tenant') to pay the Landlord's reasonable out-of-pocket expenses that are the result of the Tenant's failure to pay utility costs they were required to pay under the terms of the tenancy agreement.

This application was heard by videoconference on February 12, 2026. Only the Landlord's agents Wing Chu, and Savan Chandaria attended the hearing.

As of 11:36 a.m., the Tenants were not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

Preliminary Issue- Validity of the N5 Notice

1. The Landlord's L2 application was filed on the basis of a first N5 notice of termination served pursuant to section 64 of the Act:

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. Section 64 (3) provides that a first N5 notice of termination is a voidable notice if the Tenant stops the conduct or corrects the omission within seven days of receiving the notice:

(3) The notice of termination under subsection (1) is void if the tenant, within seven days after receiving the notice, stops the conduct or activity or corrects the omission.

3. Subsection 43(2) of the Residential Tenancies Act, 2006 (the 'Act'), states that a notice of termination given by a landlord shall set out the reasons and details respecting the termination.
4. In the Divisional Court decision *Ball v. Metro Capital Property*, [2002] O.J. No. 5931, the Court held that details are necessary so the tenant is in a position to know the case to be met, can decide whether to dispute the allegations made against them, and can consider whether to stop the behaviour or correct the omission and void the notice.
5. A tenant has the ability to void a first N5 notice in accordance with section 64(2)(c), and 64(3) of the Act, and the decision in *Ball v Metro Capital Property* emphasises that reasons and details in the N5 notice are a requirement.
6. In this matter, the Landlord's N5 notice lists three dates and states:

"FAILED TO PAY THE WATER BILLS FOR YOUR RENTAL UNIT, WHICH YOU ARE REQUIRED TO PAY UNDER YOUR LEASE AGREEMENT. YOU HAVE BREACHED THE LEASE AND INTERFERED WITH THE LANDLORD'S INTEREST, CREATING POTENTIAL LIABILITY AND HINDERING THE PROPER MANAGEMENT OF THE RENTAL PROPERTY".

7. An e-mail accompanying the N5 notice attached a water bill for October 2025, and advises the Tenants that they have seven days to correct the behaviour. The last sentence of the Landlord's e-mail is, "Please pay the bill".
8. At the hearing, I invited submissions on how a first N5 notice of termination alleging unpaid utilities is valid, absent the notice stating the amount required to be paid to void the notice.
9. The Landlord's agents made submissions that the water bills had been sent to the Tenant each month and the Tenant would have been aware of the amount required to be paid to void the notice.

10. Even if the water invoices were sent to the Tenant each month prior to service of the N5 notice, I do not find that the Landlord's N5 notice itself contains sufficient reasons and details as required by *Ball v. Metro Capital Property* that would enable the Tenant to know what is required to be paid to void the notice.
11. If the Landlord's N5 notice is predicated on non-payment of utilities and the only way for the Tenant to void the notice is by paying the outstanding amounts, then the most essential piece of information to be conveyed to the Tenant in the notice is the amount required to be paid.
12. I do not find that the October 2025 invoice that was sent with the N5 notice is sufficient to supplement the notice such that the Tenant would know the amount required to be paid to void the notice.
13. The October 2025 invoice contains a "balance forward" and makes no mention of a breakdown of previous invoices. The Landlord's N5 notice does not specify whether paying the amount listed on the October 2025 invoice would be sufficient to void the notice.
14. In these circumstances, I am not satisfied that the Landlord's N5 notice contains sufficient reasons and details that the Tenant would know the amount required to be paid to void the notice. Accordingly, I find that the Landlord's N5 notice is invalid, and the Landlord is not entitled to an order for termination of the tenancy and eviction, nor a conditional order.

Compensation for Unpaid Utilities

15. The Tenant failed to pay water costs that they were required to pay under the terms of the tenancy agreement. The Landlord submitted copies of the unpaid invoices with pro-rated calculations, and a copy of the Tenant's lease agreement.
16. The Landlord filed an amended application removing a request for compensation for substantial interference and updating the requested compensation for unpaid water expenses to \$123.40. The Landlord's agent testified that the amended application includes additional invoices and reflects a payment of \$200.00 made by the Tenants in December 2025.
17. The Landlord's calculations include, "penalty adjustments" that are reflected on the unpaid water invoices. With respect to the "penalty adjustments" on the water bills, those fees were incurred when the Landlord did not pay the water bills that were in their name. When the Tenants failed to pay the water expenses that triggered the Landlord's duty to mitigate pursuant to section 16 of the Act. Reasonable mitigation would typically be the Landlord paying the bills on time so that additional charges are not incurred.
18. I do not find the Tenants are responsible for the "penalty adjustments", and the total water expenses absent the "penalty adjustments" are \$117.80.
19. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

It is ordered that:

1. The Tenants shall pay to the Landlord \$117.80, which represents the reasonable out-of-pocket expenses the Landlord has incurred or will incur as a result of the unpaid utility costs.
2. The Tenants shall also pay to the Landlord \$186.00 for the cost of filing the application.
3. The total amount the Tenants must pay the Landlord is \$303.80.
4. If the Tenants do not pay the Landlord the full amount owing on or before April 18, 2026, the Tenants will start to owe interest. This will be simple interest calculated from April 19, 2026, at 4.00% annually on the balance outstanding.

April 7, 2026
Date Issued

Kyle McGraw
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.