



Order under Section 69 Residential Tenancies Act, 2006

Citation: Moniruzzaman v Fisher, 2026 ONLTB 26907

Date: 2026-04-08

File Number: LTB-L-091026-25

In the matter of: BASEMENT APT, 475 EMERALD AVE
OSHAWA ON L1J1K3

Between: SM Moniruzzaman Landlords
Rana Sultana

And

Doug Fisher Tenants
Janis Lahaye

SM Moniruzzaman and Rana Sultana (the 'Landlords') applied for an order to terminate the tenancy and evict Doug Fisher and Janis Lahaye (the 'Tenants') because they intend to convert the rental unit to a non-residential use.

This application was heard by videoconference on January 8, 2026.

The Landlords and the Tenants attended the hearing.

Determinations:

1. As explained below, the Landlords have not proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the application is dismissed.
2. The Tenants were in possession of the rental unit on the date the application was filed.
3. On October 1, 2025, the Landlords gave the Tenants an N13 notice of termination ('N13 notice') with the termination date of January 31, 2026. The Landlord claims vacant possession of the rental unit is required for conversion to non-residential use. The N13 notice stated the following:

Oshawa City By-law department issued a notice, this is (basement) not a registered separate unit. I need to register this unit by obtaining building permit and renovate the unit.

4. At the hearing, the Landlords submitted a copy of the City of Oshawa, Municipal Enforcement and Licensing Services, 'Notice of Violation', dated September 24, 2025. The notice states that the Landlords must take the following action by October 15, 2025:
 - a) Register the two-unit house in accordance with By-law 91-2014; or,
 - b) Return the property to single-family dwelling
5. The Landlords testified they no longer wish to rent the basement unit and that they intend to return the property to a single-family dwelling unit so that they can move their family into the property. They said the upper level of the house is empty as the previous tenants already moved out. They confirmed that the basement unit would continue to be used a residential space for their family and the only work to be done is to remove the adjoining door. They stated that they have not obtained any building permits from the City of Oshawa.
6. The Landlords admitted they did not provide the Tenants with an amount equivalent to one month compensation and submitted that the Tenants are owing arrears of rent.
7. The Tenants did not dispute the evidence of the Landlord and requested more time to find suitable housing for their family, should the Landlord's application be granted.

Analysis

8. Section 50(1) of the *Residential Tenancies Act*, 2006 (the 'Act') states in part:

A landlord may give notice of termination of a tenancy if the landlord requires possession of the rental unit in order to,

 - (b) convert it to use for a purpose other than residential premises
9. Further, section 73 of the Act also states the Board is not to make an order terminating a tenancy in an application based on a section 50 notice unless it's satisfied that the landlord intends in good faith to demolish, convert or renovate the premises, "and has obtained all necessary permits or other authority that may be require" or "has taken all reasonable steps to obtain all necessary permits or other authority... if it is not possible to obtain the permits or other authority until the rental unit is vacant".
10. The Landlords own evidence is that once the Tenants vacate, they intend to use the basement unit for storage of belongings and then move into the upper level and reside in the property as a single residential unit. The Landlords do not intend to convert the rental unit to a commercial or industrial unit and is essentially going to maintain the unit in its current state. They also have not obtained any permits for any work to be done.
11. I further find that using the rental unit for storage purposes does in fact constitute residential use, especially in light of the intention to include the unit space into a single family dwelling. In *Sertic v. Mergarten*, 2017 ONSC 263, the Divisional Court upheld the Board's decision determining that storage of personal items constitutes residential use.

12. The Landlords may want to stop operating the basement as a rental unit as it is not a registered legal basement apartment; however, this is not a “conversion” to non-residential use which would permit a termination of the tenancy pursuant to the Act.
13. As such, I am not satisfied that the Landlords intends to convert the rental unit to non-residential use. Although the application is dismissed on this basis, I would have dismissed the application nonetheless as the Landlords failed to comply with their obligation to provide the Tenant with the mandatory compensation required, prior to the termination date in the N13 notice, contrary to sections 52 and 55 of the Act.
14. The Landlords’ application for these reasons must be dismissed.

It is ordered that:

1. The Landlords’ application is dismissed.

April 8, 2026

Date Issued

Colette Myers

Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.