



Order under Section 69 Residential Tenancies Act, 2006

Citation: Gupta v McCarthy, 2026 ONLTB 29293

Date: 2026-04-14

File Number: LTB-L-064093-25

In the matter of: 114 AUTUMN RIDGE TRAIL
KITCHENER ON N2P2K1

Between: Manish Gupta Landlord

And

Lindsay McCarthy Tenants
Tommaso Albanese

Manish Gupta (the 'Landlord') applied for an order to terminate the tenancy and evict Lindsay McCarthy and Tommaso Albanese (the 'Tenants') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on April 7, 2026.

The Landlord's Legal Representative Brittany Colley and the Landlord attended the hearing.

The Tenant Tommaso Albanese and their Legal Representative Nicole Benson attended the hearing.

The Tenant Lindsay McCarthy attended the hearing.

Determinations:

Adjournment Request

1. At the outset, the Tenant Tommaso Albanese requested an adjournment because at the hearing they discovered that their legal representative David Borrie was excluded by the Law Society of Ontario from providing legal services. David Borrie had attended and was advised that they would not be permitted to represent their client at the merits hearing. The Tenant needed time to find a new legal representative because they did not feel they could make the submissions required in this proceeding.
2. The Landlord asked if another legal representative from the same firm could attend and represent the Tenant.

3. After a short recess, Nicole Benson joined the hearing and the request for an adjournment was withdrawn.

Tenant Issues

4. The Landlord requested that the Tenant issues not be considered by the Board because the Tenants had not complied with the Interim Order LTB-L-064093-25 issued on October 21, 2025, had not been complied with by the Tenants. The Tenants were ordered to pay their rent on time until this matter was resolved. The Tenants failed to pay the full rent thereafter. They also indicated that the Tenant issues were substantially the same as those in the Tenant application file number LTB-T-083181-25.
5. The Tenant Tommaso Albanese made no submissions.
6. The Tenant Lindsay McCarthy submitted that they have a large amount of issues and disagreed with the request not to consider them.
7. The interim order dated October 21, 2025 was issued once the Board granted an adjournment. The interim order specified that if rent was not paid that the Board may refuse to accept or consider evidence and submissions.

If either of the parties fail to comply with the terms of this interim order, the Member may refuse to accept or consider their evidence and submissions.

8. The Divisional Court in *Shields v. Lancelotte*, 2016 ONSC 4433 at paragraph 25 accepted this approach of the Board and found that it does not amount to a denial of natural justice.

The tenants do not identify a procedure that they allege resulted in a denial of natural justice. The reasons of the Board reveal that the Board gave the tenants an opportunity to participate. The tenants requested an adjournment and the Board granted the adjournment on terms. This interim order was clear and fair. **When the hearing commenced, the tenants' right to participate was limited because they had not complied with any part the interim order. The tenants' allegation that they were denied natural justice is manifestly devoid of merit.**

(emphasis added)

9. Where the Board issues an order for the parties to do something, it is expected that they will comply with that order. Failure to comply amounts to an abuse of process, for which there should be consequences. Therefore, I declined to hear any tenant issues that they may raise in accordance with section 82 of the Act. I was also satisfied that there would be no prejudice to the Tenants since they had submitted their own application. In so ruling, I indicated that I shall consider all submissions in accordance with section 83 of the Act.

Joint tenancy severed

10. The Tenant Tommaso Albanese submitted that they had served an N15 Notice upon their Landlord and that their interest in the tenancy was terminated as of November 21, 2025.

11. The Landlord agreed with this submission.
12. The Tenant Lindsay McCarthy disagreed. They disputed the reasons for the N15 Notice and submitted that its use amounts to an abuse of process because the reasons in support of the N15 notice were incorrect.
13. A joint tenant may terminate their interest in an ongoing joint tenancy if they experience violence or another form of abuse and serve a valid N15 notice:

47.2 (1) A joint tenant may terminate his or her interest in a monthly or yearly tenancy or in a tenancy for a fixed term by giving notice of termination to the landlord in accordance with this section if,

14. It was undisputed that the N15 Notice complied with all of the Act's requirements for the notice and accompanying statements.
15. A landlord must accept the N15 Notice if all of the Act's requirements have been met. In other words, the Landlord may not inquire into the allegations, and must keep that information confidential in accordance with subsection 47.4(1) of the Act except for the purposes set out in subsection 47.4 (2).

(1) A landlord to whom a notice is given under subsection 47.1 (1) or 47.2 (1) shall keep confidential and shall not, except as provided in subsections (2) to (5), disclose to any person or entity the fact that the notice has been given, the notice or accompanying documentation or any information included in the notice or accompanying documentation.

16. A Landlord may under specific circumstances and restrictions disclose the notice to the remaining joint tenants in accordance with subsection 47.4 (3).

(3) Subsection (1) does not prevent the landlord to whom a notice is given with respect to a rental unit under subsection 47.2 (1) from disclosing the following information to any tenant referred to in subsection 47.2 (8) after the termination date specified in the notice and after the joint tenant or tenants have vacated the rental unit in accordance with the notice:

(a) the fact that a notice was given under subsection 47.2 (1); and

(b) the termination date specified in the notice.

17. The service of the N15 notice and the vacating of the rental unit effectively severs the joint tenancy and any obligations arising after the termination date in accordance with subsection 47.2 (6).

(6) A tenant who gave notice under subsection (1) and vacates the rental unit on or before the termination date set out in the notice ceases to be a tenant and a party to the tenancy agreement on the termination date, but this subsection does not affect any right or liability of the tenant arising from any breach of obligations that relates to the period before the termination.

18. The next issue that arises, should the Board inquire into the N15 Notice to assess it for the truth of its contents or to prevent any misuse. In my view that answer must be no. The Board is not the proper forum for assessing the credibility of victims of violence or other abuse with hindsight. The Landlord has no choice to accept the notice, and even if it does not meet the requirements of the Act must keep all of the information confidential, save very limited exceptions.
19. The Board is not given jurisdiction to determine violence or other forms of abuse where an N15 Notice is given. The victims are protected and permitted to vacate and terminate their interests in a joint tenancy without the perpetrator's knowledge. If either party could challenge the declaration given in support of the N15 Notice it would undermine the entire purpose of the legislation to afford protections to victims of abuse or other forms of violence.
20. As a result, I declined to embark upon an examination of all of the circumstances that led to the service of the N15 Notice, nor the allegations contained therein.
21. Therefore, the joint tenancy was severed as of November 21, 2025. For the purposes of this application, only the arrears that accrued during the joint tenancy have been considered. I determined that assessing arrears owed by the sole Tenant would not be appropriate in these circumstances. In effect, I declined to bifurcate the proceedings to apportion liability between the joint tenants and the sole tenant.
22. The Divisional Court in *Akbari et al. v. Blenkinsop et al.*, 2024 ONSC 1184 stated that the Act does not require the Board to apportion liabilities. In my view this is not a case that warrants this type of exercise. There is no limitation that restricts the Landlord's ability to serve an N4 for arrears of rent that accrue after November 21, 2025 upon the sole tenant.
23. This means that the remaining Tenant Lindsay McCarthy becomes the sole Tenant liable for the full rent that comes due and owing after November 21, 2025.
24. In my view, if the joint tenants had their own agreement on splitting the rent payments, that does not affect the Landlord who is entitled to 100% of the lawful rent each month. The Landlord would have no knowledge of any such contracted arrangements. The Board does not have jurisdiction over these private agreements that are outside of the Act. That Lindsay McCarthy may have a cause of action against their now former joint tenant for their liability for their portion of the rent, is a matter for a court of competent jurisdiction to determine.

Arrears application

25. The Landlord requested an order for arrears of rent only, in other words to convert the L1 application for eviction and arrears of rent to an L9 application for arrears of rent only. I consented to this request.
26. The Landlord served the Tenant with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). The Tenant did not void the notice by paying the amount of rent arrears owing by the termination date in the N4 Notice or before the date the application was filed.

27. The Tenant was in possession of the rental unit on the date the application was filed.
28. The joint tenancy was severed on November 21, 2025. Rent arrears are calculated up to the date the joint tenancy was severed.
29. The lawful rent is \$3,700.00. It was due on the first day of each month.
30. The Tenants have paid \$1,850.00 to the Landlord since the application was filed.
31. The rent arrears owing to November 21, 2025, are \$15,504.44.
32. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
33. The Landlord collected a rent deposit of \$3,700.00 from the Tenants and this deposit is still being held by the Landlord for the benefit of the sole tenant that remains after the joint tenancy was terminated as of November 21, 2025.

It is ordered that:

1. The joint tenancy between the Landlord and the Tenants is terminated as of November 21, 2025, the effective date arising from the N15 notice.
2. The Tenants shall pay to the Landlord \$15,690.44. This amount includes rent arrears owing up to the date the joint tenancy was severed.
3. If the Tenants does not pay the Landlord the full amount owing on or before April 25, 2026, the Tenant will start to owe interest. This will be simple interest calculated from April 26, 2026 at 4.00% annually on the balance outstanding.

April 14, 2026
Date Issued

Robert Patchett
Vice Chair, 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.

**Schedule 1
SUMMARY OF CALCULATIONS**

A. Amount the Tenant must pay as the tenancy is terminated

Rent Owing To termination date of joint tenancy	\$17,354.44
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$1,850.00
Total amount owing to the Landlord	\$15,690.44