



Order under Section 69 Residential Tenancies Act, 2006

Citation: Hajek v Marshall, 2026 ONLTB 37726

Date: 2026-05-11

File Number: LTB-L-046982-25

In the matter of: 1, 244 ST. GEORGE ST
Sudbury ON P3C2X2

Between: Susan Hajek Landlord

And

Keith Marshall Tenant

Susan Hajek (the 'Landlord') applied for an order to terminate the tenancy and evict Keith Marshall (the 'Tenant') because the Landlord requires vacant possession of the rental unit in order to do major repairs or renovations to the unit.

This application was heard by videoconference on March 5, 2026.

The Landlord's agent, Lothar Hajek, the Landlord's representative, Roselle Greuter, the Tenant and the Tenant's representative, Zoe St. Pierre, attended the hearing.

Determinations:

1. The Tenant was in possession of the rental unit on the date the application was filed and they remained in possession of the rental unit as of the hearing date.
2. On May 30, 2025, the Landlord gave the Tenant an N13 notice of termination with the termination date of September 30, 2025. The Landlord claims vacant possession of the rental unit is required for extensive repairs and renovations.
3. At the onset of the hearing the Tenant raised three preliminary issues as follows:
 - That the required compensation has not been paid by the termination date
 - That the Landlord has failed to declare previous N13 Notices
 - That the Landlord has not obtained the necessary permits required to do the work
4. The Landlord submits that no compensation is required as they assert that they were ordered to do the work by the municipality as per subsection 54(1)(c) of the *Residential Tenancies Act, 2006* (the 'Act'). In this regard the Landlord submitted into evidence an Inspection Notice from the Building Services division of the City of Greater Sudbury dated October 14, 2025. (page 26 of the PDF document under DOC-7456545)
5. The issue with this document is that it is not an Order. This is a notice that the Landlord has failed the inspection on the insulation and vapor barrier in the basement (the Tenant's

unit) in relation to a permit that was obtained to do the work dated September 26, 2024. The permit obtained is for insulation and vapor barrier in the basement. This permit also suggests that the permit will be revoked if after six construction months of its issuance, the construction or demolition in respect of which it is issued has not seriously commenced. The inspection was conducted almost a year after the permit was obtained.

6. The Landlord further submits that the residential complex contains five units.
7. Because the work was not ordered, this means that three month's rent in compensation is to be paid to the Tenant pursuant to subsection 54(1) of the Act.
8. At the hearing the Landlord requested that they be given an extension of time to pay the required compensation based on their misunderstanding of the required compensation and the City Order being required for the work.
9. The Tenant was opposed to granting their request on the basis that more than five month's have passed since the termination date and because section 55.1 of the Act is clear regarding when compensation is required, which is by no later than the termination date set out in the notice given pursuant so section 50 of the Act.
10. I agree with the Tenant on this point. Section 55.1 is a mandatory provision respecting the requirement to pay compensation by no later than the termination date. The Landlord made no attempts to pay the compensation required prior to making their submissions at the hearing. This is not a case in which it is appropriate to use discretion in extending the time in which compensation may be given. It was not the Tenant that thwarted the Landlords attempts at paying compensation, it was the Landlords failure to observe the statutory requirements regarding the authority not to pay compensation which resulted in the required compensation not being paid.
11. The Landlord was given the option of requesting to withdraw the application and instead they insisted that they were ordered to do the work despite the obvious documentation provided as discussed above. There is no order for the work, only the results of a failed inspection notice in relation to their permit. According, this application must be dismissed.
12. I make no findings with respect to the other preliminary issues raised by the Tenant with respect to the Good Faith requirements or the requirement to submit all of the necessary permits to do the work on the basis that I find the application should be dismissed due to the Landlord's failure to pay the required compensation.

It is ordered that:

1. The Landlord's application is dismissed.

May 11, 2026
Date Issued

Terri van Huisstede
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.