



Order under Section 69 Residential Tenancies Act, 2006

Citation: De Menezes v Lapointe, 2026 ONLTB 38508

Date: 2026-05-14

File Number: LTB-L-003048-26

In the matter of: 24 Rainwater Lane
Barrie ON L4N8M7

Between: Paulina De Menezes

Landlord

And

Lee Lapointe

Tenant

Paulina De Menezes (the 'Landlord') applied for an order to terminate the tenancy and evict Lee Lapointe (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 a person the Tenant permitted in the residential complex has seriously impaired the safety of any person and the act or omission occurred in the residential complex.

This application was heard by videoconference on May 11, 2026.

The Landlord and the Tenant attended the hearing. The Tenant spoke to Tenant Duty Counsel, prior to the start of this proceeding.

Determinations:

1. The Tenant denies ever being served with the N5 and N7 Notices of Termination by the Landlord. The Landlord has the burden to prove on a balance of probabilities that valid service has been completed.
2. As explained below, the Landlord has not proven valid service of the N5 and N7 Notices ('Notices') on the Tenant on a balance of probabilities.
3. The Landlord filed a Certificate of Service indicating that she served the Notices via the Whatsapp application.

4. There was nothing further presented at the hearing that would indicate that the Notices did in fact come to the attention of the Tenant and the Tenant denied that he had ever consented to receiving legal notices via Whatsapp.
5. The Landlord testified that it was difficult to email the Tenant, and this is why she served her Notices using the aforementioned application.
6. For the reasons below, I find that service by Whatsapp is insufficient to meet the requirements of Rule 3.1, and specifically that doing so does not qualify proper service pursuant to the Board's Rules.
7. Rule 3.1 is intended to allow service on a party by providing documents in a manner that would generally be seen as secure, whether that security comes from being inside the rental unit itself, or being visually inaccessible because it is in a mailbox or other method the Tenant ordinarily receives their mail. Rule 3.1 enumerates various methods of proper service as contemplated by the Board's Rules, none of which the Landlord used.
8. As the Notices were not served in accordance with the Rules, and the Tenant denies receiving and consenting to this method of receipt, and no evidence was presented that it in fact came to his attention at the time of service, I cannot find that service of the Notices is proven on a balance of probabilities.
9. In making these findings I emphasize that there is absolutely no implication of wrongdoing or attempted deception on the part of the Landlord. She was forthright, direct and it was clear she genuinely believed the above-described service to be valid, as she included the same in her Certificate of Service form.
10. Although, the L2 application must be dismissed for the abovementioned reasons, but if the Notices were served pursuant to the Rules, there is also a lack of sufficient detail and particulars in the 1st N5 Notice as no correct dates or specific times of any alleged instances of substantial interference by the Tenant have been enumerated, other than generalities, the 1st N5 Notice specifically states on December 21, 2026, and December 22, 2026:

“ The Tenant's behaviour, including conduct involving a guest, has caused other occupants to feel uncomfortable and unsafe in the shared areas of the home.”

11. Furthermore, the N7 Notice references an attachment that was not attached. While the date may be obvious errors in the 1st N5 Notice, the Tenant has been put in the unfair situation of having to defend itself to a N5 and a subsequent application containing allegations that the Tenant has no understanding of what the particular issues are other than generalities of the allegations, which are quite confusing.
12. An N5 Notice must provide sufficient detail to allow the Tenant to know the specific allegations being made so that the Tenant can be in a position to know the case that must be met or to correct the behaviour properly complained of in the notice.
13. The 1st N5 Notice does not contain sufficient details of the alleged grounds, and in my opinion is vague and confusing. Accordingly, the Landlord's L2 application would be dismissed, as the first N5 is invalid, even if a valid form of service of the Notices pursuant to the Act was completed.

14. The second N5 is immaterial, as the invalidity of the first notice renders the second N5 also invalid as a notice of termination. A first N5 gives the Tenant an opportunity to correct behaviour properly complained of in the notice, as a means of getting a statutory “second chance”. A second N5 is given under section 68 of the Act, and unlike a first N5 does not allow the Tenant an opportunity to make amends for the offending conduct described in it. A second N5 also has a shorter termination period, and the Landlord may more quickly apply to the Landlord and Tenant Board for an eviction order. If the first N5 fails to meet the test for termination of the tenancy on the grounds alleged in it, the second N5 also fails, as the tenant has not been given an opportunity to correct behaviour that actually offends a valid ground of termination under the Act. In other words, the Tenant is entitled to the benefit of a one valid “second chance” notice before the Landlord may seek to evict. See TSL-12132-11 (Re), 2011 CanLII 13365 (ON LTB).

It is ordered that:

1. The Landlord’s application is dismissed.

May 14, 2026
Date Issued

Panagiotis P. Roupas
Member, Landlord and Tenant Board

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