



Order under Section 69 Residential Tenancies Act, 2006

Citation: Frutuoso de Freitas v Durant, 2026 ONLTB 32172

Date: 2026-06-04

File Number: LTB-L-001177-26

In the matter of: APT. 2 (B), 89 PEARL ST W
Brockville ON K6V4C3

Between: Maiane Frutuoso De Freitas Landlord

And

Karen Durant Tenant

Maiane Frutuoso De Freitas (the 'Landlord') applied for an order to terminate the tenancy and evict Karen Durant (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.

This application was heard by videoconference on April 16, 2026. The Landlord's Agent, Anoop Jose ('AJ'), the Tenant and the Tenant's Legal Representative, Francis Dobri, attended the hearing.

Determinations:

Preliminary Issue – Certificate of Service not filed

1. Section 53, paragraph 1. of O. Reg. 516/06 (the 'Regulations') under the *Residential Tenancies Act, 2006* (the 'Act') states that if the application is with respect to a notice of termination on any ground, a copy of the notice of termination and a Certificate of Service of the notice of termination, if notice was given by the landlord, must accompany the application.
2. In this case, the Landlord gave two N5 notices of termination and, as such, was required to file copies of both notices as well as the Certificate of Service that corresponds with each notice with the application. However, the Landlord only filed the Certificate of Service for the second N5 notice of termination.
3. The Landlord's Agent was asked why the Certificate of Service for the first notice had not been filed and if he was able to upload it to the Tribunal's Ontario Portal ('TOP'). The Landlord's Agent was under the impression that it was filed already and stated he could upload it to TOP.

4. The Tenant's Legal Representative objected to the late filing of the Certificate of Service and requested the application be dismissed. In this regard, he submitted that section 185 of the Act and the Regulations require the Certificate of Service to be filed with the application. By failing to file the Certificate of Service with the application, the application was not completed and filed by the required deadline, being within 30 days from the termination date in the second notice of termination. As such, the application was out of time, and the Board did not have the jurisdiction to hear it as the Board does not have the discretion to extend the deadline for filing an application.
5. I note that there is nothing in the Act or the Regulations that requires the Board to dismiss an application for failure to file the Certificate of the Service. Rather the Act and the Regulations state that it must be filed with the application. The purpose of the requirement to file a Certificate of Service is for the Board to be satisfied that the tenant was actually served with the notice of termination. In this case, the Tenant was not disputing service of the first notice of termination and there were no submissions with respect to prejudice to the Tenant if the Certificate of Service were to be accepted late.
6. In my view, the Landlord's failure to file the Certificate of Service did not mean that the Landlord's application was late and therefore out of time. I find this interpretation to be overly narrow. The application itself was filed in time and Board accepted it and scheduled a hearing.
7. For these reasons, I accepted the filing of the Certificate of Service at the hearing and the request to dismiss the application was denied. The application proceeded to a hearing of the merits.

The Application

8. As explained below, the Landlord has not proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the application is dismissed.
9. The Tenant was in possession of the rental unit on the date the application was filed.

Notices of Termination

10. On July 20, 2025, the Landlord gave the Tenant a first, voidable N5 notice of termination with a termination date of August 10, 2025 (the 'First N5 Notice'). In summary, the First N5 Notice alleged that the Tenant substantially interfered with the reasonable enjoyment of the Landlord or another tenant by approaching another tenant in the residential complex and yelling at him in an aggressive manner on July 20, 2025.
11. As the Landlord had given the Tenant the First N5 Notice, the Landlord was allowed to give the Tenant a second, non-voidable N5 notice of termination under section 68 of the Act, which they did on November 13, 2025 (the 'Second N5 Notice'). The Second N5 Notice had a termination date of December 28, 2025 and, in summary, alleged that, on November 11, 2025, the Tenant substantially interfered with the reasonable enjoyment of the Landlord or another tenant by: i) entering the restricted area of the basement in the residential complex and tampering with the electrical equipment; and ii) by sending hostile and accusatory correspondence to the Landlord that same day.

Landlord's Evidence

12. AJ is the spouse of the Landlord and assists the Landlord in dealing with some of the day-to-day operations of the residential complex. The residential complex is a triplex. In summary, the evidence of AJ was as follows:

- In the basement of the residential complex there is a mechanical area and the tenants could access the area to turn on and off the electrical breakers when necessary.
- The Tenant began making allegations of criminal activity against the Landlord. In this regard, the Tenant was convinced that other tenants were stealing her electricity and that the Landlord was colluding with the other tenants to do so.
- It was made clear to the Tenant that each unit in the residential complex is metered. Despite this, the Tenant started checking the wiring and the ducts in the mechanical area without the Landlord's knowledge.
- On November 11, 2025, the Tenant sent the Landlord an email saying that she was calling the police because she went down to the mechanical area to check the breakers and saw that there were only two electrical panels for the three units and believed that she was having to pay for another tenant's electricity use.
- In response, the Landlord called the Tenant to discuss the Tenant's concerns about the electricity and to advise that the other tenant had his own electrical panel in his unit, but Tenant continued making the same accusations.
- After the Second N5 Notice was served, the Tenant's aggressive conduct continued. Specifically, on January 2, 2026 the Tenant was aggressive toward another tenant in the residential complex and sent the Landlord a very lengthy email regarding the other tenant and made several accusations against the other tenant and the Landlord.
- On January 7, 2026, the Tenant wrote a letter to the other tenant asking him to ask the Landlord not to evict her or she would call the police and the fire department. The other tenant called the Landlord to complain about the letter he received.
- In retaliation for the Landlord filing the eviction application with the Board, the Tenant called different authorities like the Fire department.

Tenant's Evidence

13. The Tenant denied tampering with the electrical panel in any way and stated that she only went and looked at the wires and took pictures and did not recall the Landlord advising her that the other tenant had their own electrical panel.
14. The Tenant acknowledged calling the police as well as the Electrical Safety Authority and the municipality regarding her suspicions about how the electricity was being used and/or diverted.

Analysis

15. Based on the evidence and submissions provided, I am not satisfied that the Tenant engaged in the activity alleged in the Second N5 Notice, which is the basis for the Landlord's eviction application.
16. There was insufficient evidence to conclude that the Tenant tampered with the electrical panel in the residential complex and it was AJ's own evidence that, to his knowledge, the Tenant did not actually touch or change anything in the electrical panel.
17. With respect to correspondence that was sent to the Landlord on November 11, 2025, while it is clear that the Tenant is angry and making accusations, the majority of those accusations seem directed at the other tenant. In any event, one angry email from a tenant does not, in my view, rise to the level of substantial interference with the Landlord's reasonable enjoyment. Part of being a landlord is dealing with tenant complaints and sometimes tenants are frustrated with their situation and do not always come across as pleasant. This is not to say that a landlord should be subjected to or tolerate abuse from tenants, but that receiving complaints and expressions of displeasure is to be expected from time to time.
18. There was nothing in the Tenant's email that was abusive in nature. While I understand that the Tenant was saying they were going to call the police and the Landlord could have found that statement threatening, the Landlord did not attend the hearing to testify to this. Instead, she filed a declaration with the Board, which does not provide any specific details about what occurred on November 11, 2025 and makes very general allegations with no dates or specific examples. As such, the Landlord's declaration is of no value.
19. At the hearing AJ emphasized a pattern of behaviour and the events that occurred after the Second N5 Notice was served. However, in an application such as this, a landlord has to first prove the allegations in their second notice of termination before the Board will consider subsequent allegations that may be relevant to section 83 of the Act, which requires the Board to consider all the circumstances when deciding whether to delay or deny eviction. As the Landlord has not proven on a balance of probabilities the allegations contained in the Second N5 Notice, I cannot consider the evidence regarding the subsequent incidents that occurred or terminate the tenancy based on that evidence.
20. Accordingly, the Landlord's application must be dismissed.

It is ordered that:

1. The Landlord's application is dismissed.

June 4, 2026
Date Issued

Rachel Gibbons
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.