



Order under Section 69 Residential Tenancies Act, 2006

Citation: Bukovac v Napier, 2026 ONLTB 44151

Date: 2026-06-05

File Number: LTB-L-031769-24

In the matter of: 4, 1321 BRANT ST
BURLINGTON ON L7P1X7

Between: Marko Bukovac Landlord

And

Terry Napier Tenants
Maureen Napier
Alistar Napier

Marko Bukovac (the 'Landlord') applied for an order to terminate the tenancy and evict Terry Napier, Maureen Napier and Alistar Napier (the 'Tenants') 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 June 2, 2026.

The Landlord, the Landlord's legal representative, Kelly Hawkes, the Tenants and the Tenants' legal representative, Kavaine Mighty, attended the hearing. Alistar Napier did not attend the hearing because he was at work.

Determinations:

1. This application was considered with eight other files relating to the same residential complex on the hearing date. A special all-day hearing block was scheduled to consider the applications. They were scheduled to be heard together by the Board when two of the files were adjourned on October 21, 2024. All of the associated files were filed on March 25, 2024. All of the N13 Notices of Termination are dated February 1, 2024 with a termination date of May 31, 2024. All of the files included a COS certifying that the N13 Notices of Termination were given to the Tenants by placing them under the respective rental unit doors on February 1, 2024. All of the files contained requests to amend which were filed on June 25, 2025. New Certificates of Service (COS) were also uploaded into each of the respective files in June of 2025. All of the COS's also indicate they were served in the same manner by placing them under the rental unit door except the service date changed to January 31, 2024.

2. The original COS submitted for this matter stated that the N13 Notice was given to the Tenant on February 1, 2024 by placing it under the rental unit door. The COS indicates that the Landlord served the notice, but the COS is signed by the Landlord's legal representative at that time.
3. On June 18, 2025 the Landlord's new legal representative uploaded a new COS. This COS states that the N13 Notice was given to the Tenants on January 31, 2024 in the same manner by placing it under the door. This COS is signed by the Landlord on June 11, 2025.
4. The Landlord testified that he served the N13 Notice on the Tenants on January 31, 2024. He was unsure of whether it was served personally on the Tenants on that date or whether it was slid under the door because he had also served other notices on the same date to the other units and can't recall because of how much time has passed.
5. The reason this is important is because this form is used to certify service of required documents on the Tenant. This, along with the Notice of Termination and evidence for compensation on an N13 are to be filed with the LTB at the time of the application filing pursuant to subsection 53(1) and 53(2) of *Ontario Regulation 516/06*.
6. The form further states that it is an offence under the *Residential Tenancies Act, 2006* (the 'Act') to file false or misleading information with the LTB. Subsection 197(2) of the Act states that the LTB may dismiss a proceeding without holding a hearing if the LTB finds that the applicant filed documents that the applicant knew or ought to have known contained false or misleading information.
7. While I accept that the Landlord is the drafter of the N13 Notice and I accept that the Tenants were served with the notice on January 31, 2024, I draw a negative inference to the credibility of the Landlord with respect to service of documents. They submitted a document to the LTB that certifies it was served by placing it under the door. If it was served personally, then the Landlord submitted a false document to the LTB. It is expected that the Landlord knew or ought to have known how this particular document was given to the Tenants when they certified the truth of the form and gave testimony at the hearing.
8. The Tenants submit that the notice was placed under the rental unit door and that their son retrieved the Notice on February 1, 2024 when he came home from work and marked the date on it when it was received. The Tenants dispute receiving the N13 Notice on January 31, 2024 on this basis. They were not home on January 31st and retrieved the copy on February 1st when they arrived home. Their son did not attend the hearing to examine whether they may have not noticed the document on January 31st.

Was the required compensation paid?

9. A secondary preliminary issue arose with respect to whether or not the required compensation had been paid to the Tenants in accordance with section 55.1 of the Act.
10. This residential complex contains more than 5 residential units. On this basis, pursuant to 54 of the Act, the Landlord is required to compensate the Tenants up to three month's of rent or offer them another rental unit acceptable to the Tenants.

11. In accordance with section 55.1 of the Act, this compensation must be paid on or by the termination date in the N13 Notice. In this case by May 31, 2024.
12. In accordance with subsection 53(2) of *Ontario Regulation 516/06*, evidence that the landlord paid the necessary compensation required under section 54 should have been provided at the time the application was filed. Despite this requirement, no such evidence was provided. There were no cheque copies, no proof of payment and no COS's confirming payment of the required compensation.
13. At the hearing I permitted the Landlord to file their cheque copies that they submit were given to the Tenants on January 31, 2024. The matter was stood down briefly to allow the Tenants time to view the cheques and for the parties to make submissions regarding the payment of them.
14. The Landlord testified that he gave the Tenants the compensation cheque on January 31, 2024 along with the N13 Notice. They submit that at the time it was given, it correctly notes the three months rent of compensation as required, and the cheque was for \$4,705.80 with a monthly rent of \$1,568.80.
15. The Landlord further testified that on February 1, 2024 that the Tenants returned the cheque to the Landlord in the Landlord's dropbox located at the building where tenants pay their monthly rent cheques. The Landlord submits that the Tenants refused to accept the cheque or cash it because they don't want to accept the termination notice. The Landlord led no further evidence of any further attempts to pay the required compensation although they admit they were aware the compensation is a requirement for proceeding with the application.
16. The Tenants dispute receiving any compensation cheque on January 31, 2024. They further testified that they did not return any cheque to the dropbox as the Landlord states. They pay their monthly rent in installments giving four post-dated cheques at a time. They submit that in January of 2024 they gave cheques to the Landlord for the period of January, February, March and April of 2024. There was no need for them to pay the rent on February 1, 2024 as the Landlord submits. Further, the Tenants admit that they did receive a prior compensation cheque from the Landlord dated October 1, 2023 after the previous N13 Notice had been given to them. The previous cheque, which they submit was returned to the Landlord, would have correctly stated the lawful rent at that time. They don't dispute that they refused to cash the previous cheque on the basis they didn't want to accept termination of the tenancy.
17. After considering the testimony and evidence of all parties relating to the Landlords application regarding the compensation requirements, which was all the same on the Landlords part across all of the files, I am not satisfied that the required compensation was provided to the Tenants. I do not accept that the Landlord gave the compensation as they testified on January 31, 2024 or that the Tenants would have returned the cheque to the Landlord the following day. I say this also because I draw a negative inference regarding their service of the N13 Notice. I prefer the testimony of the Tenants that they were not given the required compensation on January 31, 2024.
18. While I may consider the prior compensation as being given towards this N13 Notice because the rent was the same, there were no submissions by the Landlord to do so.

Additionally, had the Landlord rather testified that compensation had been paid pursuant to a previous Notice, then they ought to have led evidence with respect to the previous compensation being provided for the current N13 Notice and they did not. They testified compensation had been given on January 31, 2024 and I am not satisfied it was.

19. Having found that the compensation is not paid, the application must be dismissed.
20. I have considered all of the evidence presented at the hearing and all of the oral testimony and although I may not have referred to each piece of evidence individually or referenced all of the testimony, I have considered it when making my determinations.
21. This order contains all of the reasons for the decision within it and no further reasons will follow.

It is ordered that:

1. The Landlord's application is dismissed.

June 5, 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.