



Order under Section 69 Residential Tenancies Act, 2006

Citation: Chatterjee v Cunningham, 2026 ONLTB 44632

Date: 2026-06-09

File Number: LTB-L-019944-26

In the matter of: BASEMENT UNIT, 3690 BRANDON GATE
DR
MISSISSAUGA ON L4T3M8

Between: Budhaditya Chatterjee Landlords
Moushumi Chatterjee

And

Nathaniel Joseph Cunningham Tenants
Chantal Wallace

Budhaditya Chatterjee and Moushumi Chatterjee (the 'Landlords') applied for an order to terminate the tenancy and evict Nathaniel Joseph Cunningham and Chantal Wallace (the 'Tenants') because:

- the Landlord requires possession of the rental unit in order to convert the unit to a non-residential use.

The Landlords also claimed compensation for each day the Tenants remained in the unit after the termination date.

This application was heard by videoconference on May 28, 2026.

The Landlords' Legal Representative, Arun Datta, the Landlords and the second-named Tenant attended the hearing.

Preliminary Issue:

1. I brought up a preliminary issue in that the Landlords had not provided a building permit as required in section 73(1)(b) of the *Residential Tenancies Act*, 2006 (hereinafter referred to as the "Act"). The Landlords intend to convert the rental unit to a non-residential use as set out on the N13 notice of termination. This house has a main floor unit and a basement unit where the Tenants reside.

2. The Landlords' Legal Representative submitted that they had an email from a Brampton and Mississauga planner that satisfied the permit requirement. He directed me to an email dated February 12, 2026 which was a response from the planner to the Landlords' designer who was proposing a second-unit dwelling at the rental address. The planner stated that because the house footprint lies within a regional storm floodplain, the TRCA, the Toronto and Region Conservation Authority would not provide a permit to the homeowner to add a second dwelling. TRCA further stated that the development "would increase the risk to life and property associated with a natural hazard."
3. Mr. Datta submitted that this email was the authority required to move forward with the conversion of the basement apartment and that no building permit was required.
4. I questioned the parties on whether an order from the building department had been received regarding the basement apartment and Mr. Datta confirmed that a letter had been received. Mr. Datta stated that the city advised that the basement apartment was required to meet all codes and to comply with fire separations.
5. The Tenant stated that the order set out that the basement apartment was not a legal apartment.

Analysis

6. The N13 notice served pursuant to subsection 50(1)(b) allows a landlord to give a notice of termination if the landlord requires possession of the rental unit in order to "convert it to use for a purpose other than residential premises". The N13 notice in this case detailed that the rental unit was "to be used for only non-residential purpose as per instructions from the City of Mississauga and Brampton."
7. The section of the Act is clear that a landlord's application may not succeed if a building permit is not required to do the repairs, renovations or conversion. Thus, the Board may not terminate a tenancy where permits are unnecessary.
8. In the event that building permits are in fact required, subsection 73(1)(b) of the Act states that the Board shall not terminate a tenancy unless the landlord has obtained in advance all necessary permits or other authority that may be required to carry out the activity on which the notice of termination was based, or the landlord has taken all reasonable steps to obtain all necessary permits or other authority if it is not possible to obtain the permits or other authority until the rental unit is vacant.
9. The rental unit in this case was built without the benefit of a building permit and is currently an illegal basement unit. The email from the city planner is not a building department order commanding a resident to convert the basement apartment to a non-residential use.
10. The Landlords were provided with a building infraction letter or order advising them that they must address the fire and safety concerns with the illegal basement apartment. Rather than address these life safety issues with the rental unit, the Landlords proposed building a second-unit dwelling to the municipality knowing that their request was a ruse.
11. Based on the February 12, 2026 response from the city planner, the Landlords served the N13 notice of termination on February 14, 2026 to the Tenants in an attempt to evict them.

12. Based on the fact that this rental unit is an illegal basement unit, I am satisfied that any renovations or conversions would require a building permit which would ensure that life safety concerns were addressed.
13. I find that the Landlords have failed to obtain, or to take any reasonable steps to obtain the proper permits in respect of the N13 Notice prior to the hearing. As a result, the Board does not have the authority to terminate the tenancy. As such, the Landlords' application must be dismissed.

It is ordered that:

1. The Landlords' application is dismissed.

June 9, 2026
Date Issued

Carrie Bertrand
Member, 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.