



**Order under Section 69
Residential Tenancies Act, 2006**

File Number: LTB-L-018930-26

In the matter of: 2, 433 GUELPH ST
Waterloo ON N2H5X9

Between: Michael Kreutzer Landlord

And

Eric Fergusson Tenants
BETH FERGUSSON

Michael Kreutzer (the 'Landlord') applied for an order to terminate the tenancy and evict Eric Fergusson and Beth Fergusson (the 'Tenants') because:

the Landlord in good faith requires possession of the rental unit for the purpose of residential occupation for at least one year.

This application was heard by videoconference on June 2, 2026.

The Landlord did not attend the hearing. The Landlord's common law spouse M. Hart attended the hearing as his representative and the Tenants attended the hearing.

Determinations:

1. 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.
2. The Tenants were in possession of the rental unit on the date the application was filed.
3. On February 25, 2026, the Landlord gave the Tenants an N12 notice of termination with the termination date of April 30, 2026. The Landlord claims that they require vacant possession of the rental unit for the purpose of residential occupation by the Landlord's daughter.
4. At the opening of the hearing, the Tenants stated that one prior N12 and one prior N13 notice for their rental unit were referenced in the Landlord's L2 application. However, the Tenants had learned that at least two other N12 or N13 notices were issued by the Landlord for other rental units in the same 4 unit residential complex which were not disclosed on the L2 application. The Tenants requested that the Landlord's application be dismissed.

5. The Landlord's representative acknowledged that there were undisclosed N12 or N13 notices but requested that the Board exercise discretion in favour of the Landlord to allow an amendment to their L2 application as the Tenants knew about the undisclosed applications. She stated that she was not aware of the wording on the L2 application form that required disclosure of prior notices for any rental units, not just for rental unit referenced in the L2 application.

6. Sections 71.1(3) and (4) of the Residential Tenancies Act state:

(3) A landlord who, on or after the day subsection 11 (2) of Schedule 4 to the *Protecting Tenants and Strengthening Community Housing Act, 2020* comes into force, files an application under section 69 based on a notice of termination given under section 48, 49 or 50 shall, in the application,

(a) indicate whether or not the landlord has, within two years prior to filing the application, given any other notice under section 48, 49 or 50 in respect of the same or a different rental unit; and

(b) set out, with respect to each previous notice described in clause (a),

(i) the date the notice was given,

(ii) the address of the rental unit in respect of which the notice was given,

(iii) the identity of the intended occupant in respect of whom the notice was given if the notice was given under section 48 or 49, and

(iv) such other information as may be required by the Rules.

(4) The Board shall refuse to accept the application for filing if the landlord has not complied with subsection (3). 2020, c. 16, Sched. 4,

7. It is not mandatory to dismiss an L2 application due to failure to disclose prior N12 or N13 applications. The Board retains a discretion to allow an amendment to the application to include disclosure of the prior N12 and N13 notices or decline to amend the application and dismiss the application.

8. In *Miller Estate v. Arguelles* 2025 ONSC 112 (CanLII) the Divisional Court, in considering a request to amend an L2 application to allow disclosure of prior N12 notices stated that:

The provisions in question attempt to balance the good faith rights of a landlord to take occupation of a residential unit with the rights a tenant to be free from wrongful eviction.

The required disclosure ensures tenants have at least some of the information necessary to legitimately question the landlord's good faith use of the s. 48 notice. That information may allow for further investigation by the tenant that reveals the landlord has not acted in good faith on earlier occasions. It may allow the Board to infer that a landlord is not acting in good faith in the application before it.

However, it is important to note that the consequence of failing to comply with s. 71.1(3) is not to render the notice void, or to prohibit the landlord from bringing its application, or to dismiss the application. It is to refuse the filing of the application.

If the non-compliance is apparent on its face, the application is simply refused so that the landlord can complete it properly and offer it for filing once again. It does not have the effect of rendering the notice invalid or prohibiting the landlord from then proceeding on it.

Once the application is accepted for filing, there is nothing that prohibits amendment to include additional notice information. Indeed, Rule 15.4 of the Landlord and Tenant Board Specific Rules anticipates amendments to applications provided the amendment is appropriate, would not prejudice any party, and is consistent with a fair and expeditious proceeding.

In this case the landlord made some disclosure in the application, and it was accepted for filing. As the tenant was the very person who had been served with the undisclosed N12 (and therefore must have known of it), it cannot be said she was prejudiced by its omission from the application.

The amendment was appropriate, did not prejudice the tenant and was consistent with a fair and expeditious proceeding. I see no legal error.

9. I have considered the Board's Rule 15 dealing with amendments to applications.
10. I am declining the Landlord's request for amendment and dismissing the application. The Landlord has not exercised reasonable diligence in the preparation of the application to the potential prejudice of the Tenants. The L2 application before me today is the third L2 application the Landlord has brought in connection with this rental unit, and so the Landlord has had to review the L2 form on at least three occasions. Despite this experience the Landlord has failed to complete the form correctly.
11. The Tenants are prejudiced. While they know there are at least two undisclosed N12 or N13 applications for rental units other than their own, they did not learn this from the Landlord but instead, found out about the undisclosed notices in chance discussions with other tenants. They cannot know, except from disclosure by the Landlord, whether there were other N12 or N13 notices given by the Landlord for units other than their own within the applicable two year period.
12. Unlike the situation in *Miller v. Arguelles*, the undisclosed notices in this case relate to other rental units in the residential complex, not the Tenants' unit. The residential complex is a 4 unit building. The Tenants do not know if the N12 and N13 notices not disclosed on the L2 application and which they learned of from the other Tenants are all the N12 or N13 notices given by the Landlord in the applicable two year period. They are entitled to a prior statement from the Landlord in the L2 application concerning all prior notices given during the applicable two year period so they can properly prepare for their hearing. They should not have to wait until the date of the hearing for the Landlord to provide this information. I find that the potential prejudice the Tenants may experience as a result of the amendment outweighs any prejudice to the Landlord from delay should the Landlord decide to give another N12 notice to the Tenants. I find that an amendment to the N12 to allow disclosure of N12 and N13 notices for other rental units in the residential complex only on the date of the hearing is significant and prejudicial to the Tenants' ability to prepare for the hearing.

13. Compensation in the amount of \$867.00 was paid by the Landlord to the Tenants. The Tenants are required to repay the sum of \$867.00 to the Landlord by June 30, 2026.

It is ordered that:

1. The Landlord's application is dismissed.
2. The Tenants shall pay the Landlord the sum of \$867.00 by June 30, 2026. If that amount is not paid by June 30, 2026, the unpaid balance shall bear interest at the rate of 4% per annum.

June 15, 2026
Date Issued

Jack Jamieson
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.

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