



**Order under Section 69 / 89
Residential Tenancies Act, 2006**

File Number: LTB-L-083966-25

In the matter of: 4016 KALAR RD
NIAGARA FALLS ON L2H1S6

Between: ANTHONY VACCA Landlord

And

JOSHUA NATHANIEL VAN HAM Tenant

Anthony Vacca (the 'Landlord') applied for an order to terminate the tenancy and evict Joshua Nathaniel Van Ham (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 someone the Tenant permitted in the residential complex has wilfully or negligently caused damage to the premises

The Landlord also applied for an order requiring the Tenant to pay the Landlord's reasonable out-of-pocket costs the Landlord has incurred or will incur to repair or replace undue damage to property. The damage was caused wilfully or negligently by the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex.

This application was heard by videoconference on January 27, 2026.

Only the Landlord ("AV") and the Landlord's representative, Sidney Sheridan attended the hearing.

As of 11:29 a.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

1. The Landlord applied for an order to terminate the tenancy and evict the Tenant because he, 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; and because they another occupant

of the rental unit or someone they permitted in the residential complex have wilfully or negligently caused undue damage to the premises. The Landlord had served on the Tenant a N5 Notice of Termination ("N5 Notice"). The Tenant failed correct the conduct within the seven-day remedy period set out under section 62(3) and 64 (3) of the *Residential Tenancies Act, 2006* (the 'Act').

2. The Landlord's L2 application is based on a first N5 notice of termination served to the Tenant on September 23, 2025, pursuant to section 62(1) and section 64(1) of the Act, with a termination date of October 16, 2025.
3. The Tenant was in possession of the rental unit on the date the application was filed.

N5 Notice of Termination

4. The Landlord testified that he is the owner of the rental unit. The Landlord's L2 application is based on a first N5 Notice alleging substantial interference and wilful or negligent damage. The N5 Notice alleges that, on or about August 7, 2025, the Landlord attended at the rental unit and observed that the rental unit was in an extremely damaged and unclean condition. The alleged damage included damage to the basement floor, damaged foundation wall wrapping, a broken and removed basement laundry sink, damaged basement stairs, damaged walls, a torn or cut-out wall alongside the basement stairs, a damaged interior basement access door, damage to carpet and flooring, damage to a wall above the main floor sink, damage to an exterior door frame, scratches or damage to the garage entry door, damage to an exterior screen door, damage to a downspout, and other damage throughout the rental unit and residential complex.
5. Further, the N5 Notice alleges that the Tenants substantially interfered with the Landlord's lawful rights, privileges, and interests by refusing or obstructing lawful entry after being served with notices of entry for inspections and repairs dated August 6, 2025, August 22, 2025, August 29, 2025, and September 4, 2025. The notice further alleges that the rental unit and surrounding areas contained excessive garbage, debris, dog feces, urine, odour, and staining, which interfered with the Landlord's ability to inspect, maintain, and repair the rental unit. The notice further alleges that the Tenants' refusal or obstruction of entry prevented the Landlord from inspecting the rental unit, assessing the damage, obtaining repair estimates, and completing necessary repair work.

Law and Analysis

6. Subsection 62 (1) of the Act states:

A landlord may give a tenant notice of termination of the tenancy if the tenant, another occupant of the rental unit or a person whom the tenant permits in the residential complex wilfully or negligently causes undue damage to the rental unit or the residential complex. 2006, c. 17, s. 62 (1).

7. Based on the uncontested evidence of the Landlord, I find, on a balance of probabilities, that the Tenant wilfully or negligently caused undue damage to the rental unit and residential complex. The Landlord testified that the rental unit was provided to the Tenant

in a clean and undamaged condition at the start of the tenancy. In support of that evidence, the Landlord provided photographs showing the condition of the rental unit prior to the commencement of the tenancy. The Landlord also provided photographs taken after the Tenant had been in possession of the rental unit, which show significant damage and uncleanness throughout the rental unit and exterior areas. The damage included damaged flooring, walls, doors, fixtures, screens, stairs, and exterior components, as well as excessive garbage, debris, animal feces, odour, and staining. The Tenant did not attend the hearing to dispute the Landlord's evidence or provide an alternative explanation for the condition of the rental unit. I find that the nature and extent of the damage go well beyond ordinary wear and tear and constitutes undue damage caused wilfully or negligently by the Tenant, their occupants, or persons they permitted in the residential complex.

8. Subsection 64 (1) of the Act states:

A landlord may give a tenant notice of termination of the tenancy if the conduct of the tenant, another occupant of the rental unit or a person permitted in the residential complex by the tenant is such that it substantially interferes with the reasonable enjoyment of the residential complex for all usual purposes by the landlord or another tenant or substantially interferes with another lawful right, privilege or interest of the landlord or another tenant. 2006, c. 17, s. 64 (1).

9. Based on the uncontested evidence of the Landlord, I find, on a balance of probabilities, that the Tenant substantially interfered with the Landlord's reasonable enjoyment and lawful rights, privileges, or interests. The Landlord testified that the Tenants failed to properly dispose of garbage, debris, dog feces, and other refuse at the rental unit and surrounding areas. The Landlord also testified that the Tenants refused or obstructed lawful entry after being served with notices of entry for inspections and repairs. The Landlord submitted copies of notices of entry served on the Tenants and copies of written responses posted by the Tenants on the door stating that the Landlord was not permitted to enter the rental unit. The Landlord also submitted an audio recording of an interaction with the Tenants in which the Tenant refused entry to the rental unit. I accept that this evidence supports the Landlord's allegation that the Tenant refused or obstructed lawful entry, which prevented the Landlord from inspecting the rental unit, assessing the damage, obtaining repair estimates, and completing necessary repair work. I accept the Landlord's evidence that this conduct interfered with his ability to inspect the rental unit, assess the damage, obtain repair estimates, and carry out necessary repairs.

Compensation for Damages

10. The Landlord also applied for compensation for damages. The Landlord submitted photographs showing the condition of the rental unit before it was rented to the Tenants and photographs showing the condition of the rental unit after the Tenants had been in possession. The photographs show extensive damage and uncleanness throughout the rental unit and exterior areas, including damage to the basement floor, foundation wall wrapping, basement laundry sink, basement stairs, walls, doors, flooring, carpet, screens, garage entry door, downspout, and other areas of the rental unit and residential complex.

11. The Landlord also submitted an itemized estimate from ServiceMaster Niagara in support of the damage claim. The estimate identifies the repair work required throughout the rental unit and residential complex, including repairs or replacement related to flooring, walls, doors, screens, fixtures, basement areas, exterior components, garbage removal, cleaning, and related restoration work. The total estimate is \$45,208.63. The Landlord testified that the estimate was for repair and restoration work only and did not include improvements or renovations. I accept that evidence.

Law and Analysis

12. Subsection 89(1) says:

A landlord may apply to the Board for an order requiring a tenant to pay reasonable costs that the landlord has incurred or will incur for the repair of or, where repairing is not reasonable, the replacement of damaged property, if the tenant, another occupant of the rental unit or a person whom the tenant permits in the residential complex wilfully or negligently causes undue damage to the rental unit or the residential complex and the tenant is in possession of the rental unit.

13. The language of section 89 requires damage to be undue. It is recognized that some damage will occur over the regular course of time, due to regular wear and tear in a residential complex. Reasonable wear and tear would not normally constitute “undue damage” (*Kamoo v. Brampton Caledon Housing Corp.* 2005 O.J. No. 3911)
14. Based on the uncontested evidence of the Landlord, I find that the Tenant caused this damage and the damage was undue. I base this on the photographs submitted into evidence, showing substantial damage throughout the unit and on the exterior of the unit.
15. The remaining issue is whether the Landlord’s claim for compensation is reasonable. I find that it is. The Landlord submitted an itemized estimate from ServiceMaster Niagara identifying the repair and restoration work required throughout the rental unit and residential complex and the estimate totals \$45,208.63. The Landlord testified that the estimate was limited to the cost of repairing damage and restoring the rental unit and did not include improvements or renovations. Based on the uncontested evidence, including the photographs and the itemized estimate, I am satisfied that the claimed repair costs are reasonable.

Relief from Eviction

16. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Residential Tenancies Act, 2006 (the 'Act'), and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. The Landlord was not aware of any of the Tenant’s circumstances for me to consider denying or delaying eviction. The Tenant did not attend the hearing to testify to their circumstances. As such, relief will not be granted.
17. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

18. The Landlord collected a rent deposit of \$2,400.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$21.26 is owing to the Tenant for the period from August 27, 2025 to January 27, 2026.
19. The amount of the rent deposit and interest on the rent deposit is applied to the amount the Tenant is required to pay.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before June 21, 2026.
2. If the unit is not vacated on or before June 21, 2026, then starting June 22, 2026, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord on or after June 22, 2026.
4. The Tenant shall pay to the Landlord \$45,208.63, which represents the reasonable costs of repairing the damage and replacing the damaged property.
5. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
6. The Landlord owes \$2,421.26 which is the amount of the rent deposit and interest on the rent deposit, and this is deducted from the amount owing by the Tenant.
7. The total amount the Tenant must pay the Landlord is \$42,973.37.
8. If the Tenant does not pay the Landlord the full amount owing on or before June 21, 2026, the Tenant will start to owe interest. This will be simple interest calculated from June 22, 2026 at 4.00% annually on the balance outstanding.

June 10, 2026
Date Issued

Joshua Labbe
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.

In accordance with section 81 of the Act, the part of this order relating to the eviction of the Tenant expires on December 22, 2026 if the order has not been filed on or before this date with the Court Enforcement Office (Sheriff) that has territorial jurisdiction where the rental unit is located.