



**Order under Section 69 / 88.1/88.2/89
Residential Tenancies Act, 2006**

File Number: LTB-L-013284-26

In the matter of: 1745 PERTH LINE 43
New Hamburg ON N3A3Z4

Between: John Moylan Landlord
Sarah Moylan

And

Kendal Muysson Tenant
Andrew Nessner

John Moylan and Sarah Moylan (the 'Landlord') applied for an order to terminate the tenancy and evict Kendal Muysson and Andrew Nessner (the 'Tenant') because:

- 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.

The Landlord also applied for an order requiring the Tenant to pay the Landlord's reasonable out-of-pocket expenses that are the result of the Tenant's failure to pay utility costs they were required to pay under the terms of the tenancy agreement.

The Landlord also applied for an order requiring the Tenant to pay the Landlord's reasonable out-of-pocket expenses that are the result of the Tenant's conduct or that of another occupant of the rental unit or someone the Tenant permitted in the residential complex. This conduct substantially interfered with the Landlord's reasonable enjoyment of the residential complex or another lawful right, privilege or interest.

This application was heard by videoconference on June 11, 2026.

The Landlord's Legal Representative, Gail Kukor Lang, and the first named Landlord attended the hearing.

As of 11:45 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:

Amendment Request Granted

1. At the hearing, the Landlord requested three amendments to the application. The first amendment was to include a utility claim for heat in the amount of \$1,762.58. The second amendment was to include a substantial interference claim for snow removal costs in the amount of \$947.84. And the third request was to amend the damage claim in relation to frozen pipes from \$10,000.00 to \$13,156.38.
2. The amended application was uploaded to the portal on June 4, 2026. The Landlord's Legal Representative says she served the Tenant with the amended application on June 5, 2026.
3. Pursuant to Rule 15, the requested amendment is granted. It is appropriate and necessary, made in good faith, was served on the Tenant and uploaded to the LTB portal, and is not prejudicial to the Tenant.
4. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the Tenant must vacate the rental unit on or before June 27, 2026. The Tenant must also pay to the Landlord \$16,052.80 which represents unpaid utility claim, substantial interference claim, a damage claim, and the application filing fee.
5. The rental unit is a single dwelling house located on a large acreage property, with a ban.
6. The Tenant was in possession of the rental unit when the application was filed.

The First N5 Notice of Termination (N5 Notice')

7. On December 3, 2025, the Landlord served the Tenant with a first N5 Notice by handing it in person with a date of termination of December 23, 2025. The first N5 Notice is served pursuant to s. 64(1) of the *Residential Tenancies Act, 2006* (the 'Act') and says that the Tenant's behaviour substantially interfered with another tenant's or the Landlord's reasonable enjoyment of the residential complex and the Landlord's lawful rights, privileges, and interests and the allegations are summarized as follows:
 1. That on August 12, 2025, October 17, 2025, and November 28, 2025, the Landlord sent the Tenant a letter with concerns over the condition of the rental unit as there is junk inside the rental unit and junk and debris outside of the rental property, and that the Tenant was in violation of the municipality by-law standards no. 11.2024.
8. The Landlord provided into evidence the three letters that were given to the Tenant. In the letters, the Landlord asks the Tenant to clean the property and remove the junk and debris.

9. The Landlord provided into evidence pictures taken in October 2025 which shows the outside property full of garbage, debris, and broken furniture. The barn area showed a deceased pig. The inside of the rental unit also show garbage, debris, feces on the floor, and unsanitary living conditions.
10. In accordance with section 64(3) of the Act, the Tenant had an opportunity to void the first N5 Notice within 7 days from being served, from December 4, 2025 to December 10, 2025.
11. The Landlord attended the property on December 21, 2025, and noted no change.
12. On the basis of the evidence provided, I find that the Tenant did not void the first N5 Notice. The Tenant does not need to void a first N5 Notice to serve a second N5 Notice. I am satisfied that the first N5 Notice was properly served and complies with s. 64 of the Act which then permits the Landlord to serve a second, non-voidable N5 Notice under section 62 of the Act for new behaviour that occurred after the 7-day voiding period and within six months of serving the first N5 Notice.
13. Only the allegations identified in the second N5 Notice can be considered as grounds for termination of the tenancy.

The Second N5 Notice

14. The second N5 Notice was served on the Tenant on February 11, 2026, by leaving the document in the mailbox or place where the mail is normally delivered, with a date of termination of February 25, 2026. The second N5 Notice contains the following allegations and are summarized as follows:
 1. Between January 19, 2026 and February 2, 2026, the Tenant or someone visiting or living with the Tenant has willfully or negligently damaged the rental unit or the residential property by failing to maintain the heat which caused the pipes to freeze and caused significant damaged to the rental unit.
15. I am satisfied that the second N5 Notice complies as properly served and complies with s. 62 of the Act.
16. The source of heat for the rental unit is a propane fired boiler. In accordance with section 6 in the lease agreement as provided by the Landlord, the Tenant is responsible to pay for the heat.
17. The Landlord testified that in early January 2026, the propane company called the Landlord to advise that the propane was getting low and that they were unable to contact the Tenant to arrange for a fill up. The Landlord was also unable to contact the Tenant. The Landlord then authorized the propane company to attend the rental unit to fill up the propane tank which they did on January 15, 2026.
18. On January 15, 2026, the Landlord spoke to the Tenant to advise that he could attend the rental unit to make sure everything with the heat was working properly. The Tenant advised the Landlord there was no need for him to attend because the heat was turned on and working properly.

19. On February 4, 2026, the Tenant contacted the Landlord to advise the heat was not working. The Landlord instructed the Tenant to reset the heating and the Landlord attended the property the following day on February 5, 2026. The Landlord noted the boiler had tripped due to the propane being so low and was failing to start due to no water pressure which meant the water lines were frozen.
20. The Landlord called a plumber to arrange emergency repairs to thaw the water line and run a new line from the well pump to the boiler.
21. The Landlord presented into evidence propane usage graph that represent the propane usage for the rental unit from the propane supplier Jutzi Fuels. The graph showed that right before the propane was refueled on January 15, 2026, the propane level was at approximately 5% or less. Upon refill, the gas level rose to approximately 85%. At this point, from approximately January 15, 2026, to February 5, 2026, that gas level line on the graph remained completely horizontal and it does not decrease. It remained at 85%. Once the Landlord attended the rental unit on February 5, 2026, to fix the heat, you then see in the graph the line gradually decrease.
22. The Landlord testified that this means that although the propane tank was filled, no propane was being used. The propane got so low to almost zero that it tripped the heat. When the Landlord contacted the Tenant on January 15, 2026 to ask if the heat was working, the Landlord says that the Tenant lied about the heat working because the graph shows otherwise. The Landlord believes that the Tenant was not home during this time and returned on February 4, 2026, which is the date she told the Landlord about the heating issue.
23. Based on the uncontested evidence before me, I find that the Tenant has wilfully or negligently caused undue damage to the rental unit by failing to maintain the heat in the rental unit causing the water to freeze which caused substantial damage to the rental unit.

Damage Claim Under S.89 of the Act

24. In order for an application for compensation for damages made pursuant to section 89(1) of the Act to succeed, the Landlord must establish the following:
 - a) There was property damage to the rental unit or residential complex;
 - b) The damage is “undue” meaning that it is not normal wear and tear and it is not insignificant; and
 - c) The damage was a result of wilful or negligent conduct by the Tenant, occupant or guest.
25. If all of these factors are met, then the Board can award the Landlord the reasonable cost to repair, or the replacement costs if it is not reasonable to do so.
26. I have already determined that the Tenant caused willful or negligent damage to the rental unit on or about January 15, 2026, for failing to maintain the heat of the rental unit, which caused the pipes to freeze.

27. The Landlord's evidence is that because the pipes froze, the Landlord sent a plumber to conduct emergency repairs. The Landlord submitted into evidence an invoice dated February 10, 2026 in the amount of \$1,862.90 and a second invoice dated March 16, 2026 in the amount of \$1,313.32 which show a detailed list of parts and repair that was conducted to thaw out the lines, replace some pipes, and install a new water line to the boiler.
28. The third invoice is from the same company and is an estimate to finish the repairs in the amount of \$9,980.16. The Landlord has not been able to attend the rental unit because the Tenant has not cleaned up the rental unit enough to allow egress to the workers.
29. Therefore, the Total amount the Landlord is seeking from the Tenant is \$13,156.38 for the damages caused to repair the leaking pipes.
30. The Landlord tried to claim the damage with their insurance company. The Landlord uploaded into evidence a letter from the insurance company which stated they were denying the claim because the Tenant had vacated the rental unit for two weeks and failed to maintain the heat causing the pipes to freeze, which was negligent on behalf of the Tenant.
31. Based on the uncontested evidence before me, I am satisfied that the Landlord has or will incur \$13,156.38 in damages for the reasonable out of pocket expense as a result of the damage caused by the Tenant.

Substantial Interference Under s. 88.1 of the Act

32. The Landlord says the Tenant has resided in the rental unit since February 2020 and that the Tenant is solely responsible for ploughing the driveway in the winter at their cost. The Landlord does not have that clause written in the lease. The Landlord states that the Tenants have maintained the driveway every winter since they moved in. However, this winter, the Tenant was no longer maintaining the driveway and it became a safety concern as there was no access from the road to the rental unit in cases of emergency.
33. The Landlord tried to speak to the Tenant about failing to maintain the driveway, but the Tenant would never respond.
34. The Landlord says that he hired Complete Tree Service N.H. Inc for snow ploughing on December 2, 2025, December 17, 2025, January 13, 2026, January 15, 2026, February 9, 2026 and February 15, 2026, as ploughing was needed for either himself to access for an inspection, the plumber, or for propane delivery. The Landlord uploaded into evidence invoices for those dates which totaled \$947.84.
35. I accept the uncontested evidence that the Tenant is responsible for snow ploughing and that the Tenant failed to do so, which substantially interfered with the Landlord's reasonable enjoyment of the residential complex and the Landlord's lawful right, privilege and interest.
36. As such the Tenant shall pay to the Landlord \$947.84 which represents the reasonable out of pocket expenses the Landlord has paid for snow removal.

Utility Claim Under S. 88.2 of the Act

37. The Landlord is seeking \$1,762.58 in an unpaid utility heating bill. As mentioned in paragraph 17 of this order, I am satisfied that the Tenant is responsible to pay for the utility bill of heat under the tenancy agreement. Pursuant to section 2(1) of the Act, heat is a utility therefore the Landlord is entitled to make a claim for unpaid utilities.
38. The Landlord testified that the Tenant failed to pay the propane bill for January 15, 2026, March 6, 2026, and March 27, 2026 and that he paid these bills. The Landlord uploaded into evidence the propane bills for these periods from the supplier Jutzi Fuels.
39. Based on the uncontested evidence before me, I am satisfied that the Tenant failed to pay the utility bills that they were required to pay for under the terms of the tenancy agreement.
40. As a result, an order shall issue regarding the Tenant to pay the Landlord \$1,762.58 for the unpaid heating bills.
41. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
42. Although this order does not specifically address each piece of evidence individually or reference all of the testimony, I have considered all of the evidence presented at the hearing and all of the oral testimony when making my determinations.
43. This order contains all of the reasons for the decision within it. No further reasons shall be issued.

Relief from Eviction

44. The Landlord is requesting an 11-day eviction order. The Landlord is financially impacted because the Tenant has caused substantial damage to the rental unit due to the Tenant's negligence in failing to maintain the heat. The Landlord is unable to complete the repairs because the Tenant is not complying with the Landlord's request to clean up the clutter to allow egress to the workers. The Landlord says that the Tenant is currently renting another farm and that the Tenant is going back and forth between properties. The Landlord says he is also stressed in having to deal with this situation.
45. The Tennat did not attend the hearing as such I did not have an opportunity to hear any evidence regarding the Tenant's circumstances regarding eviction. The Landlord says the Tenant has four children but that they have not been living at the rental unit for quite some time.
46. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act, and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

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 27, 2026.

2. If the unit is not vacated on or before June 27, 2026, then starting June 28, 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 28, 2026.
4. The Tenant shall pay to the Landlord a total of \$16,052.80 which represents:
 - \$13,156.38 for the reasonable costs of repairing the damaged property;
 - \$947.84 for substantial interference;
 - \$1,762.58 for the unpaid utility bill; and
 - \$186.00 for the application filing fee.
5. If the Tenant does not pay the Landlord the full amount owing on or before June 27, 2026, the Tenant will start to owe interest. This will be simple interest calculated from June 28, 2026 at 4.00% annually on the balance outstanding.

June 16, 2026
Date Issued

Paula West Oreskovich
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 28, 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.