



Order under Section 69 Residential Tenancies Act, 2006

File Number: LTB-L-022987-26

In the matter of: Unit 25, 2880 HEADON FOREST DR
BURLINGTON ON L7M4H2

Between: Vyasa Aashray Akundi Landlords
Kriti Malhotra

And

Samer Dahabreh Tenants
Ola Musharbash

Vyasa Aashray Akundi and Kriti Malhotra (the 'Landlords') applied for an order to terminate the tenancy and evict Samer Dahabreh and Ola Musharbash (the 'Tenants') because the Landlords in good faith require possession of the rental unit for the purpose of residential occupation for at least one year.

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 June 18, 2026.

The Landlords' legal representative, Ramadevi Gavisatty, the Landlords, the Tenants' legal representatives, Emily Ward and, Hetham Karky, and the Tenants attended the hearing.

Determinations:

Preliminary Issues

1. At the hearing, the Tenants raised a preliminary issue and submitted that the application was filed prematurely because it was filed before the N12 Notice of Termination (the 'N12 Notice') was deemed served. The Tenants also submitted that the Certificate of Service ('COS') for the N12 Notice had not been filed with the Board in accordance with the Board's Rules of Procedure (the '*Rules*').
2. The COS indicates that the N12 Notice was sent by mail or Xpresspost on March 9, 2026.
3. The Landlords testified that the N12 Notice was deposited in the community mailbox on March 11, 2026.

4. The Landlords filed the application electronically with the Board on March 13, 2026.
5. The Tenants testified that they did not retrieve and receive the N12 Notice from the community mailbox until March 14, 2026.
6. In support of their position, the Landlords submitted a report (the 'Report') from the Halton Catholic District School Board concerning the progress of the Tenants' child. The Report is dated March 13, 2026. The Landlords' legal representative submitted that the date of the Report supports an inference that the Tenants had already received the N12 Notice and obtained the Report for the purpose of responding to the Landlords' application.
7. The Tenants' representative submitted that the Report does not establish when the Tenants received the N12 Notice. The Tenants further submitted that reports of this nature are routinely issued by the school board and that the date appearing on the Report is not evidence that the Tenants had received the N12 Notice before March 14, 2026.
8. Interpretation Guideline 10 states that a landlord may file an application based on this type of notice of termination only after the notice has been given to the tenant, or on the same day that it is given.
9. Rule 3.9 of the *Rules* provides that a document served by mail, including Xpresspost, is deemed served on the fifth day after it is mailed.
10. I found all witnesses to be credible and their testimony to be generally consistent. There was no evidence before me that would cause me to reject the testimony of any party. While the Landlords testified that the N12 Notice was placed in the community mailbox on March 11, 2026, the Tenants testified that they did not receive the notice until March 14, 2026. The application, however, was filed on March 13, 2026.
11. I am not satisfied, on a balance of probabilities, that the N12 Notice had been served on the Tenants before the application was filed. The Report relied upon by the Landlords does not establish when the Tenants received the N12 Notice and I place little weight on it for that purpose. The date of the Report alone is insufficient to demonstrate receipt of the N12 Notice.
12. Moreover, pursuant to *Rule* 3.9, the N12 Notice is deemed served on the fifth day after mailing. Based on the COS, the N12 Notice was mailed on March 9, 2026, and was therefore deemed served on March 14, 2026. The application was filed on March 13, 2026, one day before the deemed date of service.
13. There was no evidence before me that the Landlords took any steps to confirm that the Tenants had actually received the N12 Notice before filing the application. In the absence of such evidence, I am unable to conclude that the notice had been given to the Tenants before the application was commenced.
14. The requirement that a notice of termination be given before an application is filed is not a mere technicality. It is a fundamental procedural requirement that ensures tenants receive proper notice and are afforded the opportunity to respond before proceedings are commenced against them.

15. Based on the evidence before me, I find that the application was filed before the N12 Notice was served or deemed served on the Tenants. As a result, the application was commenced prematurely and does not comply with Interpretation Guideline 10 or the Board's *Rules* respecting service.
16. Accordingly, I find that the application is procedurally defective and cannot proceed. The application must therefore be dismissed.
17. In light of my finding that the application was filed prematurely and must be dismissed, it is unnecessary for me to determine whether the Certificate of Service was filed with the Board in accordance with the Board's Rules of Procedure.
18. The Landlords paid the Tenants the required compensation pursuant to section 48.1 of the Residential Tenancies Act, 2006, in the amount of \$3,250.00 by Interac e-Transfer on May 4, 2026. As the application is dismissed and the termination of the tenancy will not proceed on the basis of the N12 Notice, I find that the Landlords are entitled to the return of the compensation paid to the Tenants. Accordingly, the Tenants shall reimburse the Landlords in the amount of \$3,250.00.

It is ordered that:

1. The Landlords' application is dismissed without prejudice.
2. The Tenants shall pay to the Landlords \$3,250.00, which represents the one-month's compensation paid to the Tenants.
3. If the Tenants do not pay the Landlords the full amount owing on or before July 6, 2026, the Tenants will start to owe interest. This will be simple interest calculated from July 7, 2026 at 4.00% annually on the balance outstanding.

June 25, 2026
Date Issued

Christina Philp
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.