



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

Citation: Spakowski v Hogan, 2026 ONLTB 27841

Date: 2026-06-25

File Number: LTB-L-101293-25-AM

In the matter of: 1513 Alpine Avenue
Thunder Bay ON P7E3L4

Between: Robert Spakowski Landlord

And

Terence Hogan Tenant

On the hearing panel's own motion, the order issued on May 25, 2026 is clerically amended by replacing it with the order below.

Robert Spakowski (the 'Landlord') applied for an order to terminate the tenancy and evict Terence Hogan (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 has entered into an agreement of purchase and sale of the rental unit and the purchaser in good faith requires possession of the rental unit for the purpose of residential occupation.

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

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 March 31, 2026.

The Landlord, the Tenant, and the Purchaser, Danielle Tuohimaa, attended the hearing.

Preliminary Issue:

1. The Tenant moved that the Landlord's application be dismissed on the grounds that the N12 notice of termination is invalid.
2. The Tenant testified that he was served the N12 notice on November 19, 2025, and that the termination date on the notice is January 31, 2025. He submits that as the termination date is incorrect, the notice is invalid.
3. Section 212 of the *Residential Tenancies Act, 2006* (the 'Act') states that substantial compliance with this Act respecting the contents of forms, notices or documents is sufficient. Subsection 212(2) provides that an error in the contents of a form, notice or document still constitutes substantial compliance as long as the error does not significantly prejudice a party's ability to participate in a proceeding under the Act.
4. The Tenant did not explain how the clerical error impacted his ability to participate in the proceeding. He acknowledged that as the notice was given to him on November 19, 2025, he assumed the termination date was for January 31, 2026, and not January 31, 2025. He also acknowledged that the Landlord gave him a corrected N12 notice reflecting the date as January 31, 2026. His issue seems to be based on the belief that the Landlord should have given him 90 days' notice.
5. We are of the view that the clerical error on the N12 notice was minor and did not significantly prejudice the Tenant's ability to participate in the proceeding. As the Tenant acknowledged, he understood the termination date was January 31, 2026 and this was confirmed by the amended N12 given to him by the Landlord. We are satisfied the N12 notice substantially complies with the Act and is valid.
6. It should be noted that in accordance with subsection 48(2) of the Act, the Landlord was only obligated to provide the Tenant with 60 day's notice.

Determinations:

Notice to End your Tenancy Because the Landlord, a Purchaser or a Family Member Requires the Rental Unit (N12)

1. For the reasons that follow, we are satisfied on a balance of probabilities that the Purchaser in good faith requires possession of the rental unit for the purpose of their residential occupation for a period of at least one year.
2. On November 19, 2025, the Landlord served the Tenant with a Notice to Terminate a Tenancy at the End your Tenancy ('N12 Notice'). The termination date in the N12 Notice is January 31, 2026. The N12 Notice indicates that the Landlord signed an Agreement of Purchase and Sale of the rental unit, and the Purchaser intends to move into the rental unit.
3. The Landlord compensated the Tenant in the amount equal to one month's rent in accordance with section 55.1 of the Act.

4. The Landlord filed an affidavit sworn by the Purchaser certifying that they in good faith require the rental unit for their own personal use for a period of at least one year.
5. The Purchaser attended the hearing and provided direct evidence as to her genuine intentions. She testified that she purchased the rental unit from her stepfather, the Landlord, on November 14, 2025, and intends to reside in the home with her children. She indicated that she has no plans to leave the home and intends to reside in it for at least 12 months.
6. She would like to take possession of the rental unit on February 3, 2026, and explained that any delay has an impact on her and her children as her children currently are residing in another town and she is paying hundreds of dollars a month in storage fees.
7. The Tenant does not dispute the Landlord has entered into an Agreement to Purchase and Sale and that the Purchaser genuinely intends to reside in the rental unit for a period of at least 12 months. Based on the evidence before us, we are satisfied in good faith requires possession of the rental unit for the purpose of residential occupation for a period of at least one year.

Notice to End your Tenancy for Interfering with Others, Damage or Overcrowding (N5)

8. Section 62(1) of the Act states that a landlord may give a tenant notice of termination if the tenant wilfully or negligently causes undue damage to the rental unit. Wilful conduct means with intend or deliberate. "Conduct is negligent if there is a risk of damage which a reasonable person would take reasonable precautions against" (*Bolton v. Stone* [1951] A.C. 850). Further, "If a person reasonably, albeit mistakenly, believes that there is no risk then the conduct is not negligent" (*Beutler v. Beutler* [1983] O.J. No. 505 at para. 148).
9. The Landlord testified that he observed damage to the rear door on July 8, 2024. He stated that the door had been kicked in, there were holes in the bottom of the stairs and around the kitchen area, and a large split in the door. He indicated that when he asked the Tenant how the damage occurred, the Tenant explained that his female friend caused the damage during a scuffle.
10. The Tenant denied having told the Landlord the damage was caused by his female friend. He testified that the door had been problematic since the start of the tenancy in 2022. He stated that the door was not hung correctly and that the deadbolt and lock consistently strips the wood and sticks when it opens or closes, which has resulted in the door splitting.
11. The Landlord did not admit any photographic evidence of the alleged damage. The only photographs of the rental unit come from the Tenant, who provided photographs of the rear door and the walls. The photographs do not reflect the level of damage as alleged by the Landlord. It is difficult to determine from the photographs how the damaged occurred and we find that any damage to the door is just as likely to have occurred from an improperly fitted door as alleged by the Tenant.

12. The Tenant did not dispute there were minor holes in the walls but that all holes have been repaired. He admitted into evidence photographs of the repaired walls.
13. As the applicant, the onus is on the Landlord to prove his allegations on a balance of probabilities. We find the Landlord has failed to sufficiently establish that the damage to the rear door was caused by the wilful or negligent conduct of the Tenant or someone the Tenant permitted in the rental unit. We further find that any damage to the walls were minor in nature and repaired by the Tenant. Accordingly, the Landlord's application to terminate and evict the Tenant for wilful and negligent damage is dismissed.

Out-of-pockets costs for undue damage

14. The Landlord's claim for reasonable out-of-pocket costs the Landlord incurred or will incur to repair or replace undue damage to property is also dismissed for the above reasons.

Daily compensation

15. The Landlord claimed compensation for each day the Tenant remained in the unit after the termination date. As of the date of the hearing, the Tenant had paid all rent owing to the Landlord. As such, any daily compensation for use and occupation of the rental unit will begin on April 1, 2026 and continue until the Tenant vacates the rental unit. Any rent the Tenant pays during this period shall be applied against the daily compensation owing to the Landlord.
16. Based on the monthly rent, the daily compensation is \$57.29. This amount is calculated as follows: \$1,742.50 x 12, divided by 365 days.
17. The Landlord collected a rent deposit of \$1,700.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$140.61 is owing to the Tenant for the period from November 18, 2022 to March 31, 2026.

Relief from Eviction

18. The Purchaser testified that each day her occupation of the home is delayed comes at a financial cost as she must continue paying for storage. She also explained that any delay will significantly impact her relationship with her children, who are currently residing in another town. She is eager to be reunited with her children and for them to reside in the home together.
19. The Tenant requested that the eviction be postponed by 60 to 90 days to provide him with more time to move. He testified that he had major surgery in August 2025 and that he is still weak and recovering. He is on disability until July 2026. He explained that much of his belongings is currently buried in snow and that it would be difficult to move.
20. We are of the view that the Tenant has had sufficient notice of the Purchaser's intentions to move into the home. We do not believe the Tenant's desire for additional time ought to outweigh the needs of the Purchaser and her children.

21. We 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.

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 July 6, 2026.
2. If the unit is not vacated on or before July 6, 2026, then starting July 7, 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 July 7, 2026.
4. The Tenant shall pay the Landlord compensation of \$57.29 per day for the use of the unit starting July 7, 2026 until the date the Tenant moves out of the unit. Any rent paid by the Tenant shall be applied towards the amount owing in daily compensation.
5. The Landlord owes \$1,840.61 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.

May 25, 2026
Date Issued

Vanessa Davies

Vanessa Davies
Member, Landlord and Tenant Board

June 25, 2026
Date Amended

Dawn Sullivan
Vice-Chair, 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 January 7, 2027 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.