



Order under Section 69 Residential Tenancies Act, 2006

Citation: Cababa-An v Swanson, 2026 ONLTB 47909

Date: 2026-06-30

File Number: LTB-L-040324-26

In the matter of: 255 BORDEN ST
TORONTO ON M5S2N5

Between: Maria Cababa-An Landlord

And

Timothy Swanson Tenant

Maria Cababa-An (the 'Landlord') applied for an order to terminate the tenancy and evict Timothy Swanson (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 number of persons living in the unit on a continuing basis is more than permitted by health, safety or housing standards;

This application was heard by videoconference on June 16, 2026.

Only the Landlord, and the Landlord's representative, Paul Dineen attended the hearing.

As of 9:15 am, 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. As explained below, the Landlord's N5 notice of termination is invalid. Therefore, the application must be dismissed.
2. The Tenant was in possession of the rental unit on the date the application was filed.

3. On November 15, 2025, the Landlord gave the Tenant a first, voidable N5 notice of termination deemed served on the same day. The notice contains that the Landlord was appointed the estate trustee by the courts, and on February 26, 2026, the Landlord attended the property with the assistance of a fire inspector, and it was witnessed that there was damage caused to the rental unit and there were multiple unknown people residing in the rental unit. The Landlord also alleged that there were more people living in the rental unit than is permitted by health, safety, or housing standards.
4. As the Landlord gave a notice pursuant to section 64 of *Residential Tenancies Act, 2006* (the 'Act'), the Tenant was entitled to void the notice.
5. On March 25, 2026, the Landlord gave the Tenant a second N5 notice of termination deemed served on the same day, under section 68 of the *Residential Tenancies Act, 2006* (the "Act"). The details in this notice were identical to those indicated on the first. For the following reasons, this renders the notice invalid.
6. A second N5 notice is served pursuant to section 68 of the Act, it says:

68 (1) A landlord may give a tenant notice of termination of the tenancy if,

- (a) a notice of termination was given to the tenant under section 62, 64 or 67; and
- (b) more than seven days but less than six months after the notice mentioned in clause (a) was given to the tenant, an activity takes place, conduct occurs or a situation arises that constitutes grounds for a notice of termination under section 60, 61, 62, 64 or 67, other than an activity, conduct or a situation that is described in subsection 61 (1) and that involves an illegal act, trade, business or occupation described in clause 61 (2) (a). [Emphasis added]

7. Based on the language of the statute, the Landlord must have served a valid notice (in this case section 64) and the activity that gives rise to the notice must have occurred after the voiding period, but less than 6 months after the notice was given. But also, the conduct must be different than the conduct described on the initial notice. This is because of the Tenant's ability to void the notice. If a landlord was permitted to serve an identical notice under 68, it would render parts of section 64 of the Act meaningless.
8. As the notice does not comply with the Act, it is not valid. This is also not a situation where the application could be amended to be based on the initial N5 notice. The termination date indicated on that notice was January 28, 2026. Section 69(2) of the Act requires that the application be made no later than 30 days after the termination date in the notice. This application was filed on May 7, 2026. Therefore, the application must be dismissed.

It is ordered that:

1. The Landlord's application is dismissed.

June 30, 2026
Date Issued

Jin Zhang
Member, Landlord and Tenant Board

Curtis Begg
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.