



## **Order under Section 61 and 31 Residential Tenancies Act, 2006**

**Citation:** Gupta v El Fadhil, 2025 ONLTB 57835

**Date:** 2025-07-29

**File Number:** LTB-L-065774-24 & LTB-T-022283-25

**In the matter of:** Basement Unit, 43 WAYMOUNT AVE  
RICHMOND HILL ON L4S2G5

**Between:** Naresh Beni Prasad Gupta

**And**

Farag Mohamed El Fadhil  
Pouneh Vaziri

I hereby certify this is a  
true copy of an Order dated

**Jul 29, 2025**

Landlord and Tenant Board

Landlord

Tenant

*The capitalized words "Landlord" and "Tenant" refer to all parties identified as each at the top of the order.*

Naresh Beni Prasad Gupta (the 'Landlord') applied for an order to terminate the tenancy and evict Farag Mohamed El Fadhil and Pouneh Vaziri (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 or another occupant of the rental unit has committed an illegal act or has carried out, or permitted someone to carry out an illegal trade, business or occupation in the rental unit or the residential complex.

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

Pouneh Vaziri and Farag Mohamed El Fadhil (the 'Tenant') applied for an order determining that Naresh Beni Prasad Gupta (the 'Landlord'):

- substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenant or by a member of their household.
- harassed, obstructed, coerced, threatened or interfered with the Tenant.
- withheld or interfered with their vital services or care services and meals in a care home.

These applications were heard by videoconference on July 23, 2025.

The Landlord, the Landlord's Legal Representative M.Z. Goldgrub, the Tenant, and the Tenant's

Legal Representative D.A. Rosso, attended the hearing.

**Determinations:**

LTB-L-065774-24

N5 Notice of Termination

1. On August 1, 2024, the Landlord gave the Tenant an N5 notice of termination. The notice of termination contains the following allegations:
  - Starting June 15/24: the Tenant has stored personal and hazardous items in the common area;
  - Several times since June 1, 2024: the Tenant is noisy so as to frighten the Landlord's children;
  - July 13, 2024: the Tenant showed up at the Landlord's door after having and engaged in a verbal altercation with the Landlord, plus loud noise;
  - Several times since January 13, 2024: the Tenant was smoking on the property contrary to the lease;
  - June 6, July 10 and 17, 2024: the Tenant improperly parked their car in the driveway so as to obstruct the Landlord;
  - Several times since March 28, 2024: the Tenant trespassed on the Landlord's personal backyard space
  - May 5, 2024: the Tenant threw a tree at the curbside of the residential property;
  - Several times since Mar 27, 2024: the Tenant was aggressive, disrespectful, and threatening towards the Landlord;
  - July 13 and July 27, 2024: the Tenant disregarded repeated requests to correspond via email, and shows up at the Landlord's door at any time.
2. The Tenant's Legal Representative submitted that the N5 notice of termination lacks sufficient details as most of the issues are vague with respect to dates of the allegations, using terms like 'starting' or 'several times since'. Therefore, in accordance with *Ball v. Metro Capital*, the notice should be dismissed as invalid.
3. The Landlord's Legal Representative submitted the notice is sufficient because it has enough dates; the Landlord should not have to keep a list of every infraction. Plus, some of the dates are not all encompassing, as such it is not defective; the Board often carves out parts of the notice and proceeds on the balance, an example of this is *SWT-95060-16* (2017 CanLII 9459 (ON LTB)). In that case the Member found two of the issues raised by the Tenant to be unduly vague and lacking the necessary references to specific dates and times for the conduct alleged; the member found the application to be defective with respect to those two issues only and proceeded on the other issues. Therefore, any allegations in the N5 lacking sufficient dates should be carved out and the matter proceed on the balance of the allegations.
4. According to the Ontario Divisional Court's decisions in both *Kuzyk v. S.K. Properties* (Toronto Docket No. 106/01, [2001] O.J. No. 5260 (Div. Ct.) Re: TSL-18855) and *Ball v. Metro Capital Property and Lockhurst* (Toronto Docket No. 48/02 (Div. Ct.) Re: TNL-

31297), if a Notice of Termination issued by a landlord is confusing to the degree that a reasonable person could not understand the precise actions or omissions that caused the landlord to pursue eviction, a Member would find it defective. At paragraph 10, Ball says: "There are several purposes for requiring the landlord to provide the reasons and details. The tenant needs to know the specific allegations against her in order:

- to be in a position to know the case that must be met;
- to decide whether to dispute the allegations made against her before the Tribunal; or
- to consider whether to stop the conduct or activity or correct the omission within seven days and thereby void the notice."

At paragraph 11 through 12, the court says particulars should include dates and times of the alleged offensive conduct together with a detailed description of the alleged conduct engaged by the tenant. As the N5 is a notice of termination as well as a notice to the tenant to comply, particulars of the allegations are essential.

5. In this case, the N5 contains nine allegations, five of which use terminology such as 'several times since' and 'to the date of the notice' in respect of the date indicated. As such, over half of the allegations are too vague for the Tenant to know exactly when the conduct allegedly occurred; such details are essential to the Tenant's ability to dispute allegations as well as know the specifics of the case to meet. Section 43 clearly sets out notice requirements, which includes setting out reasons/details for the notice; a notice of termination cannot be amended. Although section 212 of the Act allows for substantial compliance, in the case of a notice of termination it would only be for something akin a typographical error. As stated in *Re Bianchi v. Aguanno* ([1983] O.J. No.3053, 42 O.R. (2d) 76), the court held that notices of termination which did not comply with the mandatory content requirements were completely void and could not be amended; this state of the law was affirmed in *George V. Apartments v. Cobb*, [2002] O.J. No. 5918 (Ont. Div. Ct.). With respect to the case referred to by the Landlord's Legal Representative, SWT-95060-16, this was a tenant application where the Board 'carved out' the invalid portions; it was not in respect of a notice of termination. As to the particulars should not have to be down to the nth-degree, the Landlord is expected to have sufficient details in the notice of termination, including keeping a list of alleged infractions if the notice is including more than one date. For all these reasons, the N5 notice of termination is dismissed.

#### N6 Notice of Termination

6. On August 5, 2024, the Landlord gave the Tenant an N6 notice of termination. The notice of termination contains the following allegations: on August 1, 2024, the Landlord found out the Tenant had misrepresented information on their rental application in respect of their references; the Landlord had relied on these references when the lease was entered into. The Tenant committed an illegal act by giving fraudulent information and conspiring with a third party to misrepresent this information to the Landlord.
7. This Member raised as a preliminary issue that the alleged illegal act must be related to the landlord and tenant relationship, here the alleged act is providing misinformation on the rental application; as such, it is outside of the Board's jurisdiction.

8. The Landlord's Legal Representative submitted the illegal act referred to continued into the tenancy, the evidence will prove this; the Landlord's position is these explicit representations kept being given. Although not a Board decision, in *Davies v. Syed* (2020 ONSC 5732) the court says when the right to lease was obtained because of fraudulent misrepresentation, the lease agreements are void *ab initio*; this case should be binding in this matter. Further, the Board's Rules of Practice say the Act is not to be interpreted in an overly technical manner; there, is nothing in section 61 of the Act that says 'after the tenancy commenced'. The hearing should be allowed to proceed.
9. The Tenant's Legal Representative submitted the notice has to be valid in order to proceed; the allegations are prior to the tenancy, they did not occur during the tenancy.
10. The N6 notice of termination is invalid, the allegations are related to pre-tenancy, thus are outside of the Board's jurisdiction. The N6 specifically refers to the allegation of fraudulent misrepresentation on the rental application form and for conniving with third parties to misrepresent themselves as the Tenant's previous landlords; both alleged acts occurred prior to the tenancy starting. That section 61 of the Act does not specify the illegal act must be after the tenancy commenced, the illegal act/allegations must be during the tenancy. The Act only applies to matters within its jurisdiction, meaning the parties have to be in a landlord and tenant relationship. Here the alleged acts referenced in the N6 are prior to the tenancy being entered into and do not fall under the Board's jurisdiction. As to the case *Davies v. Syed*, although it is not a Landlord and Tenant Board case, it is regarding tenancies where the landlord entered into leases purportedly not covered by Residential Tenancies Act, 2006 (the 'Act'). Even though the court found those leases to be void in *Davies v. Syed*, section 37(1) of the Act is clear, "a tenancy may only be terminated in accordance with the Act"; logically, any allegation on a notice of termination must be for acts that occurred within the tenancy. Here the acts alleged in the notice occurred prior to the tenancy beginning; that the Landlord found out about the alleged misrepresentations during the tenancy does not give rise to a valid reason for termination under the Act.
11. As both the N5 and N6 are dismissed as invalid, the Landlord's application is dismissed.

LTB-T-022283-25

12. This Member raised as a preliminary issue that the Tenant's application did not contain sufficient detail for the Landlord to know how to defend; this is contrary to the principle of Natural Justice.
13. The Tenant's Legal Representative submitted all issues raised in the Tenant's application are interrelated to the Landlord's allegations in their applications, therefore, the Landlord is aware and knows the case to meet. These matters were directed to be heard together at the previous hearing; once hear the Landlord's case, it will be clear this is what is contained in the Tenant's application. There is no prejudice to the Landlord, it is not a trial by ambush; the evidence is the same for Landlord and Tenant applications and all evidence is on the portal. Since the Landlord knows the issues, the Tenant's application should proceed. Although not a landlord and tenant case, in *Healthy Lifestyle Medical Group Inc. v. Chand Morningside Plaza Inc.* (2019onca6), the court said pleadings must be read generously; this case should apply here because the application in this case are the

pleadings. Therefore, unless the Landlord can say he has no idea what the issues are, the Tenant's application should proceed to a hearing.

14. The Landlord's Legal Representative submitted the law is clear, the defending party has the right to know the case they are to meet. In TET-08886-20 (2020canlii117950) the Tenant's application was dismissed because of insufficient details, and in SWT-95060-16 (2017canlii9459) the parts lacking sufficient details were dismissed. Here, there are no details with dates, the application must be dismissed.
15. The Tenant's application shall be dismissed due to insufficient details. Although *Healthy Lifestyle Medical Group Inc. v. Chand Morningside Plaza Inc.* said pleadings should be read generously, it also said a "statement of defence is required to contain the material facts on which a party will rely"; here, the material facts are not contained in the Tenant's application. As to the cases referenced by the Landlord's Legal Representative, I find SWT-95060-16 to be most compelling as it points to not being able to rely on evidence at hearing to know the allegations, at paragraph 5 the Member says:

I find that on these issues, the application was unduly vague and lacks necessary references to specific dates and times for the conduct alleged. While the Tenants may well have intended to lead direct evidence of the alleged misconduct of the Landlord or his agents through witness testimony or other evidence at the hearing, the problem lies in the actual text of the originating document – their application – which is the document against which the respondent Landlord must craft his answer. I find on the balance of probabilities that the vague allegations contained in this application frustrate the Landlord's ability to fully and properly respond to the application.

**It is ordered that:**

1. The Landlord's application LTB-L-065774-24 is dismissed.
2. The Tenant's application LTB-T-022283-25 is dismissed.

**July 29, 2025**  
**Date Issued**

  
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Diane Wade  
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 February 10, 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.

