



Order under Section 69 Residential Tenancies Act, 2006

Citation: 250 Frederick Inc. v Hain, 2025 ONLTB 78570

Date: 2025-10-13

File Number: LTB-L-037761-24 et. al. (see Schedule 1)

In the matter of: Various units (see Schedule 1)
250 FREDERICK ST
KITCHENER ON N2H2N1

Between: 250 Frederick Inc.

Landlord

And

See Schedule 1

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

Oct 14, 2025

Dale Whitmore

Landlord and Tenant Board

Tenant

250 Frederick Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict the Tenants because the Landlord requires vacant possession of the rental unit in order to do major repairs or renovations to the units. The Landlord also claimed compensation for each day the Tenants remained in the units after the termination date.

This application was heard by videoconference on May 26 and October 6, 2025.

The Landlord was represented by [REDACTED]. The Tenants were represented by [REDACTED] and [REDACTED], with the exception of the Tenant Robert Elder [REDACTED], who was self-represented.

Reasons:

1. The Landlord brings 17 applications to terminate the tenancies of 17 units in an apartment building in order to carry out repairs or renovations. The Tenants oppose the applications. They do not believe that the Landlord genuinely intends to carry out the work, but if it does, they want to keep living in their units while the work is being done.
2. To succeed in its applications, the Landlord must prove that it genuinely intends to carry out the work, that the work requires a building permit, that the Landlord has obtained the building permit, and that the work is so extensive as to require vacant possession of the units.
3. For the following reasons, the Landlord has not proved its case. The applications will be dismissed.

The proposed repairs and renovations

1. The building is an 18-storey apartment building. There are two units on the first floor and one unit on the 18th floor. The other 16 floors all have identical floorplans, with seven units per floor, for a total of 115 units in the building.
2. The Landlord served each of the 17 units in this proceeding with an N13 notice to end the unit's tenancy. The 17 N13s were identical, as the Landlord says that it intends to do the same repairs and renovations throughout the building. The project described in each N13 consisted of two types of work.

Interior renovations

3. First, the N13s stated that the Landlord would carry out the following renovations to upgrade the interior of each unit:

The non-loadbearing partition walls within the unit, separating the kitchen from the living room, will be removed to create an open-concept space. The unit is scheduled for extensive renovations, encompassing the replacement of bathroom tiles and bathtub, flooring throughout the entire unit, installation of new kitchen cabinets and an island, addition of new kitchen appliances, replacement of closet doors, modification of lighting fixtures, switches, and all electrical sockets.

Riser replacement

4. Second, the N13s stated that the Landlord would carry out "the replacement of risers" in each unit. The N13s did not elaborate. However, the parties have adduced extensive evidence to explain to me what a riser is and what its replacement would entail.
5. A "riser" is a pipe that runs in the walls vertically up the building to supply water to units' kitchens and bathrooms. I presume that its name comes from the fact that water rises up it in order to reach the units. Risers come in pairs, supplying hot and cold water.
6. In this building, most of the floors have identical floorplans, so the kitchens and bathrooms on each floor are located directly above the corresponding kitchens and bathrooms on the floor below. Each vertical column of kitchens is supplied by a pair of risers. Each vertical column of bathrooms is supplied by another pair of risers. The building has a total of 12 or 13 riser pairs, each running from the basement to the top of the building.
7. In addition to water supply pipes, kitchen and bathroom fixtures also have drain pipes. Each riser pair has a corresponding vertical drain pipe, called a "stack," which runs next to it in the wall. Horizontal drain pipes connect each fixture to the stack.
8. Risers and stacks degrade over time and must eventually be replaced. The replacement is done in sections, unit by unit. In each unit, a hole is cut in the wall to access the plumbing. The section of risers and/or stacks for that floor is removed and replaced through the hole in the wall. The hole is then patched. To replace an entire riser or stack, the same process is carried out in the corresponding unit on each floor, such that the entire riser or stack is replaced section by section.

9. Hence, when each N13 stated that the Landlord would carry out “replacement of risers” in a unit, it meant that it would cut a hole in the wall in that unit, replace the section of the risers accessed through the hole, and then patch the hole.
10. The N13s did not specify which risers would be replaced. The Landlord’s evidence suggests that it intends to replace the kitchen risers, but not the bathroom risers.

Has the Landlord proved its case?

11. The Landlord seeks to terminate the tenancies pursuant to section 50(1)(c) of the *Residential Tenancies Act, 2006* (RTA), which provides that a landlord may give a notice of termination to “do repairs or renovations to it that are so extensive that they require a building permit and vacant possession of the rental unit.”
12. Section 73(1)(a) provides that the tenancies cannot be terminated unless the Landlord intends in good faith to carry out the repairs or renovations. “Good faith” in this context means that the Landlord genuinely intends to carry out the repairs or renovations. Section 73(1)(b) further provides that the tenancies cannot be terminated unless the Landlord has obtained all necessary permits.
13. The combined effect of sections 50(1)(c) and 73(1) is that, to succeed in these applications, the Landlord must prove three things:
 - that the work set out in the N13s requires a building permit, and the Landlord has obtained the permit;
 - that the Landlord genuinely intends to carry out the work set out in the N13s; and
 - that the work set out in the N13s is so extensive that it requires vacant possession of the rental unit.
14. I will consider each of the three elements in turn.

Does the work require a building permit, and has the Landlord obtained the permit?

15. The Landlord has not established that it has obtained a building permit for the work set out in the N13s.
16. The interior renovations do not require a building permit. One of the Landlord’s witnesses commented that most municipalities would require a permit for this type of work, but that Kitchener, where this building is located, is an exception.
17. The Landlord argues, however, that it has obtained a building permit to replace the risers.
18. The problem with the Landlord’s argument is that it does not have a permit to replace the risers. The building permit is in evidence before me. It states that it is a permit “To Replace Existing Plumbing Stacks On Floor 3 To 15 In An Apartment Building.” In other words, the N13 says that the Landlord will replace risers, but the permit is to replace stacks. As discussed above, risers and stacks are different types of plumbing.

19. There is nothing in the permit to indicate that it would allow the Landlord to replace the risers.
20. The Landlord's witnesses were asked about the discrepancy. The first witness, [REDACTED], is an employee of a related corporation, Family Properties, which manages the tenancies in the building. She prepared the N13 notices and arranged for them to be given to the Tenants. She was not involved in planning or carrying out repairs and renovations in the building, and did not write the description of work in the N13s. She initially testified that the Landlord had a permit to replace the risers, but then changed her testimony and conceded that she had no knowledge of the permit. When asked who would have that knowledge, she testified that she did not know.
21. The second witness, [REDACTED], is a plumber. He testified that the Landlord has hired his company to do the proposed plumbing work. He initially testified that he will be replacing the risers. However, when asked why the permit was to replace the stacks, not the risers, he changed his testimony. He said that once the walls have been opened and he sees the condition of the risers, he will "bring it up with the inspectors." In other words, the permitted work is to replace the stacks, but if it turns out that the risers also needed to be replaced, further permission will be needed from municipal permitting inspectors.
22. I asked [REDACTED] to clarify whether the existing permit would need to be modified in order to replace the risers. He replied that it would, which would require a discussion with the municipality.
23. The Landlord's third witness, [REDACTED], is a civil engineer. He testified that the Landlord hired him to assess whether the risers should be replaced. He recommended that they should be, based on the age of the building. He did not apply for the building permit. He assumes that a different engineer applied for the permit and will plan and supervise the work.
24. The Landlord did not call any other witness. Notably, it did not call any witness who was involved in obtaining the building permit. None of the Landlord's witnesses was able to explain why the permit was for stack replacement rather than riser replacement.
25. The Landlord's representative confirmed that the Landlord has not applied for any additional permit or modification to the existing permit. The Landlord's position is that the existing permit is sufficient.
26. On the evidence before me, the Landlord does not have a building permit to carry out the work set out in the N13s. A building permit is not required for the interior renovations. A building permit is likely required to replace the risers, but the Landlord does not have one. It has a permit to replace the stacks, which is not work set out in the N13s. The permit would need to be modified, or a new permit issued, to allow riser replacement.
27. The application therefore fails because, contrary to section 73(1)(b), the Landlord does not have all the necessary permits to replace the risers. Alternatively, if a permit is not needed to replace the risers, then the application fails because the proposed work does not meet the requirements of section 50(1)(c).

Does the Landlord genuinely intend to carry out the work?

28. The Landlord has also not established that it genuinely intends to carry out the work set out in the N13s.
29. I am satisfied that the Landlord intends to do interior renovations. It has already renovated some vacant units in the building. There is some dispute as to whether it intends to do all the interior renovations described in the N13s. However, the bigger issue is whether the Landlord genuinely intends to replace the risers. The riser replacement is the only part of the work that requires a building permit, so if the Landlord cannot prove that it genuinely intends to do that part of the work, its applications cannot succeed.
30. There are three reasons to doubt that the Landlord genuinely intends to replace the risers.
31. First, there is significant credible evidence that the risers do not need to be replaced. The Landlord purchased the building in 2023. It says that the risers have never been replaced, and are past their useful life. However, a retired employee of the building's previous property management company, [REDACTED], testified that the risers were replaced, in batches, on various dates between 2011 and 2017. She further testified that she prepared a sales package that listed all the work done in the building from 2010 onwards, which was given to prospective buyers. Consequently, the Landlord would have known, prior to buying the building, that the risers had already been replaced.
32. A plumber, [REDACTED], also testified. His company was hired by the previous property management company to carry out the riser replacements. His company's records indicate that in 2017, they replaced the risers for one column of bathrooms for floors 2-7, one column of kitchens for floors 3-7, and another column of kitchens for floors 2-7. The records only go back to 2015, but [REDACTED] recalls that his company also replaced other risers in the building prior to 2015. [REDACTED]'s testimony corroborates [REDACTED]'s testimony that the risers were replaced in batches between 2011 and 2017.
33. The riser replacement project will, according to the Landlord, be quite expensive. It is difficult to believe that the Landlord would commit to the project without at least investigating whether, as stated in the sales package, the risers had already been replaced. Instead, on the evidence before me the only investigation the Landlord did was that [REDACTED] looked at the plumbing in the boiler room and saw that it was original. Since risers are replaced in sections, the fact that the boiler room plumbing had not been replaced would not reasonably have led to the conclusion that the risers had not been replaced.
34. [REDACTED] also testified that risers have a useful life of 25 to 40 years. A riser replaced between 2011 and 2017 would not need to be replaced again in 2025.
35. Second, as discussed above, the Landlord does not have a permit to replace the risers. It applied for and received a permit to replace the stacks, which suggests that the work it intends to do is stack replacement, not riser replacement. There is no evidence before me to explain why the Landlord did not apply for a permit for the work that it says it genuinely intends to do.

36. Third, the evidence in support of the Landlord's intention was weak. No employee, officer, or director of the Landlord testified. No person involved in the Landlord's decision-making process testified. There is no direct evidence before me that the Landlord has decided to replace the risers.
37. [REDACTED] is an employee of Family Properties, a separate corporation that works with the Landlord. The Landlord proffered her testimony as proof of its intentions. However, on cross-examination [REDACTED] conceded that she is not involved in decisions regarding repairs and renovations, and does not even know who makes those decisions. The instruction to serve N13s, and the text of the N13s, were given to her by "the owners." She did not say who the owners were.
38. [REDACTED] testified that his company will replace either the risers or the stacks. As discussed above, he was unclear as to which. He also did not explain who had hired his company or how they had described the planned work to him. His testimony was of little assistance in determining what work the Landlord genuinely intends to do.
39. [REDACTED]'s only involvement in the project was to carry out an initial assessment. He testified that the result of his assessment was that he recommended to the Landlord that the risers be replaced. His testimony does not help me to determine whether the Landlord genuinely intends to act on that recommendation.
40. The Landlord has not proved, on a balance of probabilities, that it genuinely intends to replace the risers. The risers probably do not need to be replaced; the Landlord has only minimally investigated whether they need to be replaced; the Landlord has not applied for a building permit to replace them; and none of the Landlord's witnesses had any direct knowledge of the Landlord's intentions.

Does the work require vacant possession?

41. Finally, the Landlord has not established that the work set out in the N13s is so extensive that it requires vacant possession of the rental units.
42. The N13s stated that the work was "anticipated to span approximately 7 to 10 months." The Landlord must have meant that the renovations to all the building's units, together, would take seven to ten months. The work in each unit will not take nearly that long.
43. There is little evidence before me as to how long the interior renovations in each unit will take. Based on the description in the N13s, the work will not be extensive. Installing new tiles, bathtub, cabinets, island, appliances, and closet doors should not take more than a day or two. Installation of new flooring might conceivably take a week. Removal of a non-load-bearing wall might take a few days. In total, I do not see how the interior renovations to each unit could be expected to take more than a week or two. Certainly the Landlord has not adduced any evidence to show that a longer timeframe would be needed.
44. As for the riser replacement, the evidence is clear that each unit can be done in a day or two. [REDACTED] testified that all the riser replacement work, including cutting and patching the walls, can take as little as two days per unit. [REDACTED] testified that the plumbing itself would take less than one day per unit.

45. However, the Landlord argues that, because of the way it plans to do the work, the units will need to be vacant for significantly longer than that. It plans to renovate the whole building simultaneously: it will shut off the water to the whole building, remove the cabinets from the walls in all units, cut the holes in all units, replace the risers in all units, patch the holes in all units, and carry out the interior renovations in all units. Apparently, this way of proceeding will be more efficient because the Landlord will not have to schedule contractors in sequence for each unit. For example, it can hire drywallers to patch the holes in the whole building all at once, rather than scheduling them for each unit individually. Some of the risers can also be accessed more easily while the kitchen cabinets are off the walls during the interior renovations.
46. The Landlord's preferred way of proceeding may be more efficient, but on the evidence before me it is not necessary. [REDACTED] testified that his company's normal practice, in this and other buildings, is to take a unit-by-unit, "cascading" approach. On the first day, drywallers prepare the first unit by cutting a hole to access the risers. On the second day, plumbers replace the risers in the first unit, while drywallers cut an access hole in the second unit. On the third day, drywallers patch the hole in the first unit, plumbers replace the risers in the second unit, and drywallers cut a hole in the third unit. Work continues from unit to unit in the same pattern, such that each unit is under renovation for only three days.
47. During a cascading riser replacement, the water supply to a riser is shut off each morning. However, each evening the water is turned back on, so tenants only lose their water supply during the workday. Further, because the kitchens and bathrooms are on separate risers in this building, a tenant who does not have water supplied to their kitchen during the workday can still get water from their bathroom.
48. The Tenants are all willing to accept the inconvenience entailed in a cascading riser replacement. They describe the inconvenience as minimal, and on the evidence before me I agree with that assessment. One of the Tenants, [REDACTED], testified that her risers were previously replaced by [REDACTED]'s company. The work took less than a day, and was already done when she got home from work that day.
49. The Landlord argues that a cascading approach is not realistic because it is too expensive and too difficult to schedule contractors. [REDACTED] conceded on cross-examination that the cascading approach is possible, but testified that he did not recommend it because of the difficulty scheduling contractors.
50. I do not accept the Landlord's argument. The evidence is clear that, in practice, the cascading approach works. [REDACTED]'s company routinely takes that approach in other buildings, and took the same approach in this building in previous riser replacements. The cascading approach might be more expensive, but building owners routinely choose that approach despite the expense.
51. The Landlord plans to do the interior renovations at the same time as the riser replacements. It is possible, though I think it unlikely, that doing so could create significant delay and expense in a cascading approach. If so, then the Landlord has the option of changing its plans and doing the renovations and riser replacements at different times. This might mean removing and replacing the kitchen cabinets twice, and having to clean up construction dust and debris twice, but would not otherwise cause any difficulties.

52. Hence, I am not satisfied that the proposed work will take so long as to “require” vacant possession within the meaning of section 50(1)(c). The units do not have to be unavailable for seven to ten months as claimed in the N13s. If the Landlord adopts a cascading approach to the riser replacement, and carries out the interior renovations separately if necessary, then each unit will only be under renovation briefly.
53. The Landlord also argues that vacant possession is required because the work will be dusty and dangerous. The evidence in support of that argument is very weak. [REDACTED] testified that the work will create noise, dust, and debris. All repairs and renovations entail some noise, dust, and debris, but [REDACTED] did not explain why the impacts in this case would be so extensive as to require vacant possession.
54. In response to a leading question, [REDACTED] also testified that it is common for pipes to have asbestos insulation. However, he did not appear to have any concerns regarding asbestos in this building. There is no evidence that the Landlord has tested for asbestos or that there is asbestos in the building. [REDACTED] did not testify that he will need to do any asbestos containment when he replaces the risers.
55. The Landlord has not proved, on a balance of probabilities, that the work set out in the N13s is so extensive as to require vacant possession of the units. On the evidence before me, the Tenants can remain in possession, with minimal inconvenience, while the work is done. Perhaps they will each have to stay elsewhere for a week or so, but that is not the same thing as relinquishing vacant possession (*Paskaleff v. Stieg*, [1982] O.J. No. 3703 (Ont. Cty. Ct.)).

Other issues

56. I would note one other issue in the Landlords’ applications. The building permit to replace the stacks was only issued in respect of floors 3 through 15. None of the Landlord’s witnesses was able to explain why the permit did not include floors 1, 2, 16, 17, and 18.
57. Some of the units in this proceeding are on floors 2 and 16. Even if the applications had been otherwise successful, they would have failed against those units since no building permit was issued in respect of work to be done in those units.

Conclusion

58. The Landlord bears the onus of proving that it genuinely intends to do work in each unit, that the work requires a building permit which the Landlord has obtained, and that the work is so extensive as to require vacant possession of the units.
59. The Landlord has not proved any of the three elements of its case. The Landlord does not have a building permit for any of the work set out in the N13s. I am not satisfied that it genuinely intends to do any work that requires a building permit. Even if it does, I am not satisfied that it will require vacant possession of the Tenants’ units in order to carry out the work.
60. Since the Landlord has not proved its case, the applications will be dismissed.

It is ordered that:

1. The Landlord's applications are dismissed.
2. Any Tenant who has received a compensation cheque from the Landlord in respect of this proceeding shall not cash it, and shall return it to the Landlord forthwith if they have not already done so.

October 14, 2025

Date Issued

Dale Whitmore

Dale Whitmore

Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
Toronto ON M7A 2G6

If you have any questions about this order, call [REDACTED] or toll free at [REDACTED].

Schedule 1 – Respondent Tenants, file numbers, and unit numbers

Tenant names		File number	Unit
		LTB-L-	
		LTB-L-	
		LTB-L-	
		LTB-L-	
		LTB-L-	
		LTB-L-	
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		LTB-L-	
		LTB-L-	
Robert Elder		LTB-L-	
		LTB-L-	
		LTB-L-	
		LTB-L-	
		LTB-L-	
		LTB-L-	