



Order under Section 69 Residential Tenancies Act, 2006

File Number: LTB-L-035317-25

In the matter of: 605, 1195 KING ST E
CAMBRIDGE ON N3H5N5

Between: Housing Cambridge Inc. Landlord

And

Dakota Bernard Tenant

Housing Cambridge Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Dakota Bernard (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 Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on September 2, 2025.

Only the Landlord's legal representative, Peter Schroeder, the Landlord's agent, Rob Mendonsa, attended the hearing.

As of 9:32am, 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 has proven on a balance of probabilities the grounds for termination of the tenancy in the application. However, the Landlord is not seeking an eviction order at this time and instead asks for ongoing conditions enforceable under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') for a 24-month period.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On February 12, 2025, the Landlord gave the Tenant a Notice to End your Tenancy for Interfering with Others, Damage or Overcrowding (N5) with a termination date of March 31,

2025. This was the first N5 notice given to the Tenant within the last six months. The notice was served on February 12, 2025 and the seven-day voiding period under subsection 64(3) of the Act ran from February 12 to February 19, 2025.

4. The N5 notice alleges that the Tenant has been smoking cigarette and marijuana products in a non-smoking rental unit, with smoke and odours seeping into the common hallway and adjacent units, contrary to the lease. Appendix B to the N5 is a copy of the tenancy agreement showing that the unit is designated non-smoking and that the Tenant is not permitted to smoke anywhere in the rental unit, including the balcony.
5. The N5 lists a series of documented incidents, including the following:
 - On November 17, 2024 at 8:22 p.m., it was reported to the Landlord that cigarette and marijuana smoke was coming from the Tenant's unit and seeping into the common hallway and adjacent units.
 - On December 2, 2024 and December 15, 2024, and again on December 30, 2024, it was reported that marijuana smoke was coming from the Tenant's unit and seeping into the hallway and adjacent units.
 - On December 4, 2024, the Tenant received a first written warning from the Landlord regarding smoking in the non-smoking unit and was told to cease smoking anywhere in the unit, including the balcony, and warned that continued violations would result in an N5 notice.
 - On January 2, 2025 and January 15, 2025, further complaints were received that marijuana and cigarette smoke from the Tenant's unit was seeping into the hallway and adjacent units.
 - On January 3, 2025, the Tenant received a second and final written warning regarding smoke smell coming from the unit.
 - On January 27, 2025 and February 6, 2025, additional complaints were received that cigarette and marijuana smoke from the Tenant's unit was seeping into the hallway and adjacent units.
6. The N5 states that multiple tenants have complained of health problems and of being restricted in who they can invite to their homes as a result of "nearly constant" marijuana and other smoke smells from the Tenant's unit, and that this activity has seriously interfered with both the reasonable enjoyment of other tenants and the Landlord's lawful rights and interests.
7. The Landlord called Ashley Williams as a witness. Ms. Williams testified that she lives in unit 602, across the hall from the Tenant's unit. She stated that when she walks up to the Tenant's door she can smell "weed and other drugs" coming from the unit, that this occurs daily, and that the smell affects her breathing and causes an itchy throat because she has asthma. She testified that she is unable to have her niece visit because of the smoke. Ms. Williams also testified that she smelled marijuana smoke coming from the Tenant's unit on February 16 and February 19, 2025, which fall within the seven-day voiding period for the N5. I accept her evidence as credible and reliable.

8. Based on Ms. Williams' uncontradicted evidence and the contemporaneous complaints listed in the N5, I find that the Tenant did not stop smoking or otherwise correct the behaviour within seven days after receiving the N5 notice of termination. The N5 was therefore not voided under subsection 64(3) of the Act.
9. I am satisfied on a balance of probabilities that the Tenant smoked marijuana and other substances in the rental unit and/or on or near the balcony of the unit on multiple occasions between November 2024 and February 2025. As a result, marijuana and cigarette smoke odours repeatedly entered the common hallway and adjacent units. This activity has caused significant discomfort and health effects for other tenants, including Ms. Williams, who suffers from asthma, and has interfered with their ability to enjoy their homes and have guests over.
10. In these circumstances, I find that the Tenant's conduct has substantially interfered with the reasonable enjoyment of the residential complex for all usual purposes by other tenants and with the Landlord's lawful right and interest in operating a non-smoking building and protecting the health and safety of its residents. The Landlord has therefore proven the ground for termination under subsection 64(1) of the Act.
11. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
12. There is no last month's rent deposit.

Relief from eviction

13. Under section 83 of the Act, even where a landlord proves a ground for termination, the Board must consider all of the circumstances and may refuse to terminate the tenancy, or delay eviction, where it would be unfair to do otherwise.
14. In this case, the Tenant did not attend the hearing or file any materials. The only evidence before me regarding circumstances is from the Landlord's witnesses and documents, which focus on the impact of the Tenant's smoking on other tenants in this non-smoking building and on the Landlord.
15. The evidence establishes that the smoke and odours from the Tenant's unit have had ongoing, significant effects on other tenants' health and comfort, particularly for Ms. Williams who has asthma and experiences daily symptoms. The building is designated non-smoking and the Landlord has given the Tenant multiple written warnings and an opportunity to correct the behaviour before serving the N5.
16. The Landlord advised that it is not seeking an eviction order at this time but is instead seeking an order imposing no-smoking conditions on the tenancy, enforceable by way of a section 78 application for a period of 24 months.
17. I 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 not be unfair to grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.

It is ordered that:

1. The tenancy between the Landlord and the Tenant continues if the Tenant meets the conditions set out below.
2. Effective January 6, 2026, and for a period of 24 months, the Tenant, any other occupants of the rental unit, and any persons the Tenant permits in the residential complex shall not smoke or vape any tobacco, cannabis, or other substance anywhere inside the rental unit, on any balcony or exclusive-use outdoor area associated with the unit, or in any interior common areas of the residential complex.
3. If the Tenant fails to comply with the conditions set out in paragraph 2 of this order, the Landlord may apply under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') for an order terminating the tenancy and evicting the Tenant. The Landlord must make the application within 30 days of a breach of a condition. This application is made to the LTB without notice to the Tenant.
4. The Tenant shall pay to the Landlord \$186.00 for the cost of filing the application.
5. If the Tenant does not pay the Landlord the full amount owing on or before January 16, 2026, the Tenant will start to owe interest. This will be simple interest calculated from January 17, 2026, at 4.00% annually on the balance outstanding.

January 5, 2026
Date Issued

Colin Elsby
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.