



Order under Section 69 Residential Tenancies Act, 2006

Citation: Hillcrest Properties 1 LTD v Gregory, 2026 ONLTB 2004

Date: 2026-01-06

File Number: LTB-L-062943-24

In the matter of: 03, 33 DUNDURN ST S
HAMILTON ON L8P4J9

Between: Hillcrest Properties 1 LTD

Landlord

And

Samuel Gregory

Tenant

Hillcrest Properties 1 LTD (the 'Landlord') applied for an order to terminate the tenancy and evict Samuel Gregory (the 'Tenant') because:

- the Tenant, another occupant of the rental unit or a person the Tenant permitted in the residential complex has seriously impaired the safety of any person and the act or omission occurred in the residential complex.

This application was heard by videoconference on December 18, 2025.

The owner Peter Dyakowski for the Landlord and the Tenant attended the hearing.

Determinations:

1. As explained below, the Landlord has not proven on a balance of probabilities the grounds for termination of the tenancy and/or the claim for compensation in the application. Therefore, the application is dismissed.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On July 17, 2024, the Landlord gave the Tenant an N7 notice of termination. The notice of termination contains the following allegations:
 - July 16, 2024, staff found a homeless person asleep in the house with drug paraphernalia.
 - July 16, 2024, the trespasser was confronted and said the Tenant was his best friend. The trespasser and Tenant then went into the Tenant's room.
 - July 17, 2024, staff found the homeless person/the Tenant's guest sleeping in the common area. Staff escorted off the p[roperty].

4. The Landlord testified, relying on videos and pictures, that the Tenant lives in bedroom 3 on the top level of the house; the house is student residences whereby each student has a private bedroom and share the common areas. On July 16, 2024, at approximately 7:00 a.m., staff found a homeless person in the living room with drug paraphernalia. At approximately 9:00 a.m., the individual was confronted and said he was a friend of the Tenant; both the individual and the Tenant went to the Tenant's room. On July 17, 2024, the trespassed individual was found in the common area again and escorted off the premises by staff. A neighbour of the Tenant posted a Google review mentioning the problem with squatters/trespassers in the complex; the individual said had they known of this issue they would not have moved into the building.
5. The Landlord testified the allegations meet the level of serious impaired safety because the complex is student residences where the average age of tenants is 18 to 23. The homeless individual on the premises with alcohol and drugs is a serious safety concern; building residents do not feel safe with a homeless individual sleeping in the living room. The Tenant must be evicted for the safety of others.
6. On cross examination the Landlord testified the 'trespassed' individual had not been properly trespassed because he went into the Tenant's unit.
7. The Tenant testified that he never gave the individual the door code. He talked to the individual because he recognized him as a former tenant. Being a former tenant of the building he had the door code because the Landlord does not change it; he told the Landlord this and that the code should be changed. There is no reason he would bring someone into the complex that would cause problems with the Landlord; he pays less than market rent and does not want to have to move. Even the Landlord's video shows that staff said for him and the individual to go upstairs. He never gave the individual the code and never let him into the complex; he should not be evicted. As for drug paraphernalia, the Tenant saw a weed grinder and papers but had nothing to do with it. Plus, he has not seen the person in the complex since the Landlord's allegations in the N7. Further, the allegations themselves should not be on a N7, if anything they would be more fitting for a N5; but he still had nothing to do with the person being there. The Landlord's application should be dismissed.

Analysis

8. Section 66(1) of the Act states:

A landlord may give a tenant notice of termination of the tenancy if,

(a) An act or omission of the tenant, another occupant of the rental unit or a person permitted in the residential complex by the tenant seriously impairs or has seriously impaired the safety of any person; and

(b) The act or omission occurs in the residential complex.

9. The case law establishes that to warrant eviction under Section 66, there must be some actual impairment of safety. As held in *SOL-26261-12, 2012 LNONLTB 2628*, it is not necessary that anyone has actually been hurt or injured. It is sufficient that it is foreseeable that the act or omission could have resulted in or may result in a serious impairment of safety. The impairment of safety must be serious. Given the serious consequences of this ground, including short notice, immediate application, no opportunity to correct behaviour, priority eviction by the Sheriff, this ground is intended for the most serious of situations.
10. Here, the allegation of seriously impaired safety is that the Tenant allowed a trespassed individual into the rental complex and his room, and such conduct seriously impaired the safety of others in the complex.
11. Based on the totality of the evidence and testimony before me, I find the Landlord did not prove on a balance of probabilities that the Tenant permitted the alleged offending individual into the building or that the safety of anyone in the building was seriously impaired.
12. I accept the Tenant's testimony that he did not give the individual the door code and the only reason the person went to his room was because staff said to; they did not want him in the common area. The Tenant told the Landlord numerous times that he did not give this person the door code or let him into the house. He also told the Landlord how he figured the person got the door code; the Landlord did not dispute this. Therefore, I find the Landlord did not establish that the Tenant 'permitted' this individual into the rental complex.
13. Even if the Tenant had, the Landlord did not establish that the ensuing conduct seriously impaired the safety of others in the building. There were no witnesses to offer testimony as to how the allegations resulted in serious impairment. Although the Landlord provided a Google post, the individual was not present to testify or be cross-examined as to the specifics of how he or others were seriously impaired. Therefore, even if the Tenant had allowed the individual into the complex, the Landlord did not establish that it was 'foreseeable' that the act could have or may result in a serious impairment of safety.
14. Based on the above, the Landlord's application must be dismissed.

It is ordered that:

1. The Landlord's application is dismissed.

January 6, 2026

Date Issued

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.

