



Order under Section 69 Residential Tenancies Act, 2006

File Number: LTB-L-077741-25

In the matter of: 2, 94 BARNESDALE BLVD
HAMILTON ON L8M2V6

Between: Toby Markowitz Landlord
Donna Markowitz

And

Irene Major Tenant

Toby Markowitz and Donna Markowitz (the 'Landlord') applied for an order to terminate the tenancy and evict Irene Major (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;
- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex used the rental unit or the residential complex in a manner that is inconsistent with use as a residential premises and that has caused or can be expected to cause significant damage.

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 December 16, 2025.

The Landlord's legal representative, Mike Andrews and both Landlords attended the hearing. The Tenant attended the hearing. A support person for the Tenant, a friend, Chelsea Springgay attended the hearing to provide technical assistance for the Tenant.

Preliminary:

1. After the Landlord presented their evidence the Tenant requested an adjournment. The Tenant's support person, Chelsea Springgay (CS), submitted that the Tenant required legal representation and she as in attendance only to help with the video conference.

2. CS stated that the Tenant had come to her with the notice of hearing shortly after receiving it. CS stated that she works full time and did not have time to help the Tenant find legal support or dedicate to helping Irene.
3. CS stated that Irene suffered a stroke months before the hearing.
4. Board records indicate the notice of hearing was sent to the parties on November 11, 2025.
5. The Landlord's legal representative objected to the Tenant's request given the hearing had commenced.

Analysis

6. At the commencement of the hearing, I spoke with the Tenant and assessed her ability to proceed.
7. At the beginning of the hearing the Tenant stated she understood the allegations in the application and why a hearing was being conducted.
8. Although the Tenant's speech was slightly broken, the Tenant was able to articulate her thoughts. The Tenant stated that she performs functions such as going to the bank to withdraw cash to pay her rent to the Landlord. The Tenant was aware of how much her rent was and when it was due, and I did not find there to be any cognitive issues with the Tenant's communication.
9. The Board's Interpretation Guideline 1 provides guidance on adjournment requests and has this to say about adjournment requests to allow representation:

Section 10 of the SPPA states that a party may be represented by a representative at a hearing. However, the right to representation is not absolute and an adjournment is not automatically granted when it is requested on this ground. The onus is on the party wishing to be represented to make all reasonable efforts to find a lawyer or paralegal able to represent them at the hearing once they become aware of the hearing date.

The General Approach of the Board states:

Section 183 of the RTA directs the Board to "adopt the most expeditious method of determining the questions arising in a proceeding that affords to all persons directly affected by the proceeding an adequate opportunity to know the issues and to be heard on the matter."

Parties should assume that the hearing will proceed on the date stated in the Notice of Hearing. This means that the parties should be prepared to present their evidence, call and question witnesses and make their submissions.

The party seeking the hearing's rescheduling should submit a written request to the Board at least five business days before the schedule hearing, preferably in the form provided by the Board. The written request must include:

- ***confirmation that the other party or parties have agreed to the rescheduling;***

[emphasis added]

10. The Board's Rules of Procedure section A2 states:

Rule A3 - Interpretation

A3.1 The rules and procedures of the tribunal shall be liberally and purposively interpreted and applied to:

- a. promote the fair, just and expeditious resolution of disputes,

11. Section 183 of the *Residential Tenancies Act*, 2006 (the "Act") states:

Expeditious procedures

183 The Board shall adopt the most expeditious method of determining the questions arising in a proceeding that affords to all persons directly affected by the proceeding an adequate opportunity to know the issues and be heard on the matter. 2006, c. 17, s. 183.

12. With the totality of the evidence and submissions before me and on a balance of probabilities I find the Tenant has been given ample opportunity to prepare for the hearing and had the ability and time to acquire legal representation.
13. After considering the Tenant's submission I do not find that proceeding with the hearing would be procedurally unfair to the Tenant and I am satisfied that the Tenant is aware of the allegations in the application.
14. Considering the nature of the allegations in the application I find it appropriate and reasonable to deny the Tenant's request to adjourn.
15. Given all the above the Tenant's request to adjourn is denied.
16. The hearing proceeded.

Determinations:

17. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy.
18. The Tenant was in possession of the rental unit on the date the application was filed.

19. On September 16, 2025, the Landlord gave the Tenant an N7 notice of termination with a termination date of September 27, 2025. The notice of termination asserts that the Tenant's occupant has seriously impaired the safety of another person within the residential complex. The notice alleges the Tenant or occupant used the rental unit or the residential complex in a manner that is inconsistent with use as a residential premises by trafficking drugs.
20. The rental unit is a small one-bedroom unit on the main floor of a residential complex containing five rental units.
21. The Landlord submitted photographic, video and documentary evidence to support the allegations.
22. The Landlord claims the Tenant's son Richard Major, an occupant in the rental unit, has seriously impaired the safety of another guest, and other tenants in the rental unit. This conduct occurred in the residential complex.
23. The Landlord submitted video surveillance evidence to support the Landlord's allegation.

Landlord evidence

24. The Landlord stated that on June 23, 2025 the stabbed an individual who was a guest of Richard Major's at the residential complex.
25. The Landlord also claims the Tenant's son Richard Major is dealing and buying drugs on the residential complex property.
26. The Landlord submitted video of the incident captured on the residential complex video surveillance and a copy of the police report as evidence to support their allegations. Video evidence shows Richard Major and his guest outside the residential complex and Richard Major stabs his guest in the head with a knife.
27. The Landlord stated police were called and Richard Major was charged with assault.
28. The Landlord stated that Richard Major's conduct continued after the application was filed with the Board.
29. Video evidence shows on November 21, 2025 Richard Major assaulted his guest, Michelle Thompson, Richard Major's girlfriend. Police were called and Richard Major was charged with assault.
30. In the November 21, 2025 video the Tenant can be seen entering the main entry way while the assault is taking place. The Tenant and Richard Major then go back to the rental unit.
31. The Landlord stated that the other tenants in the rental unit fear for their safety due to Richard Major's behaviour. One of the upstairs tenants has small children and other upstairs tenants refuse to use the main entry of the residential complex as the Tenant's rental unit is directly beside the stairway leading upstairs and the tenants are in fear or running into Richard Major.

32. The Landlord alleges that Richard Major has been using the residential complex in a way that is inconsistent with its use by trafficking drugs in the residential complex.
33. The Landlord submitted video evidence to support the Landlord's claim.
34. The videos show individuals attending the rental unit and appearing to exchange items with Richard Major.
35. Another video shows Richard Major dumping a substance on the railing of the front porch patio and then scooping it up on his hands.
36. The Landlord stated that Richard Major has continued to attend the rental unit on December 8, 2026 and December 11, 2026.
37. The Landlord is seeking an eviction.

Tenant evidence

38. The Tenant stated she was only made aware of the stabbing after the Landlord informed her of the incident and claims her son was never charged in the stabbing incident.
39. The Tenant acknowledges some of Richard Major's behaviour and stated he has mental issues and although he is not on any medication smokes marijuana for relief.
40. The Tenant submitted Richard Major is no longer living in the rental unit and was incarcerated. Part of his release conditions was he was to reside at his father's house however, Richard Major still attends the rental unit to visit the Tenant.
41. The Tenant stated that she will continue to allow Richard Major to attend the rental unit as he is her son.

Analysis

42. With the totality of the evidence and submissions before me and on a balance of probabilities I find the Tenant's occupant Richard Major has seriously impaired the safety of other tenants in the residential complex by stabbing an individual on the residential complex property.
43. I am not satisfied the Landlord has proved the allegations for claims of inconsistent use causing serious damage of the rental unit as a result of drug trafficking.
44. Although the video shows individuals arriving at the rental unit and there appears to be an exchange of items between Richard Major and the individuals, I am not satisfied the Landlord has proved the allegations how this activity caused or would cause serious damage.

45. The Landlord led with insufficient evidence to prove how the exchange between Richard Major and the individuals constitutes inconsistent use causing damage. For example if the substance could be confirmed to be a lethally dangerous drug like fentanyl and the surface of the patio railing had been exposed to such a drug, but I find the Landlord's evidence inconclusive.
46. In the alternative, I would normally expect to see allegations of this nature on an N6 notice with allegations of production/trafficking/possession for trafficking under section 61(2)(a) of the Act.
47. For the reasons above the Landlord's claim for inconsistent use are dismissed.

Relief from eviction

Landlord in breach of maintenance

48. The Tenant submitted the Landlord is in breach of their maintenance obligations under section 83(3)(a) of the Act that states:

Circumstances where refusal required

(3) Without restricting the generality of subsection (1), the Board shall refuse to grant the application where satisfied that,

(a) the landlord is in serious breach of the landlord's responsibilities under this Act or of any material covenant in the tenancy agreement; The Tenant stated her son attends the rental unit to visit and she has a friend that visits to help cook her meals on occasion.

49. The Tenant submitted that her bathroom wall and ceiling are damaged due to a leak over two years ago, and the Landlord has not repaired the damage.
50. CS was able to move the video device and provide a live stream view of the damage claimed by the Tenant.
51. The Landlord claims they have attempted to repair the bathroom however they are in fear of entering the rental unit given Richard Major's presence in the rental unit at the time he occupied the rental unit and his ongoing visits.
52. With the totality of the uncontested evidence and submissions before me and on a balance of probabilities I do not find the Landlord is in serious breach of their maintenance obligations.
53. Although the wall and ceiling drywall appears to have crumbled, I do not find the disrepair to rise to the level of a serious breach of the Landlord's responsibility.
54. I further note the Tenant claimed the leak happened almost two years ago and the issue of an actual leak is not ongoing as of the day of the hearing.

Other section 83 considerations

55. The Tenant stated she is on a fixed pension income of \$1,500.00. The Tenant's rent is \$860.00 per month.
56. The Tenant stated she has a second son who is currently incarcerated and has no other family or friends for support should she be evicted.
57. I raised the possibility of a conditional order with the Tenant preventing her son Richard Major from attending the rental unit. The Tenant stated she would not comply with a conditional order to prevent Richard Major from attending the rental unit.
58. CS stated that she has informed the Tenant on multiple occasions that she may be evicted if she cannot come to terms with preventing Richard Major from attending the rental unit.
59. The termination of a tenancy is a remedy of last resort and relief should be granted where the tenancy can be saved without overly prejudicing a landlord's interests.
60. In this case, with the totality of the evidence and submissions before me I do not find the tenancy can be preserved through a conditional order.
61. The Tenant has disregarded all attempts by the Landlord to address her son's behaviour while occupying the rental unit. Further the Tenant appears to be unwilling to prevent her son from attending the rental unit in the future to preserve her tenancy.
62. I note the decision by the Divisional Court in *Joseph v. Toronto Community Housing Corporation*, 2013 ONSC 413, where the Divisional Court held that:
- “In particular, the Board considered the well-being of the community as a whole and the tenants in that community take precedence over the individual's rights to ask for relief from forfeiture in the circumstances. The Board was entitled to so conclude (see *Metropolitan Housing Authority v. Owusu-Ansah*, [1995] O.J. No. 3864)”
63. Given the Tenant is unwilling to preserve her tenancy with a conditional order preventing her son from attending the rental unit I find it reasonable that Richard Major poses a potential threat to the other tenant's safety.
64. In *Furr v. Courtland Mews Cooperative Housing Inc.*, 2020 ONSC 1175 (CanLII) the Divisional Court confirmed that serious impairment of safety includes both actual impairment and a real risk of impairment.
65. In weighing the Tenant's circumstances against the interests and safety of the other tenants in the rental unit, in my view an extended order for eviction would be prejudicial to the Landlord and potentially puts the safety at risk of the other tenants given Richard Major's conduct regarding the stabbing of his guest.
66. 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

67. Although this order does not specifically address each piece of evidence individually or reference all the testimony, I have considered all of the evidence presented at the hearing and all of the oral testimony when making my determinations.
68. This order contains all reasons for the determinations and order made. No further reasons will be issued.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before January 10, 2026.
2. If the unit is not vacated on or before January 10, 2026, then starting January 3, 2026, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord on or after January 11, 2026.
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 10, 2026, the Tenant will start to owe interest. This will be simple interest calculated from January 11, 2026 at 4.00% annually on the balance outstanding.

January 5, 2026
Date Issued

Greg Brocanier
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 July 11, 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.