



Order under Section 21.2 of the Statutory Powers Procedure Act and the Residential Tenancies Act, 2006

File Number: LTB-T-043167-22-RV

In the matter of: basement, 1544 KING ST W
TORONTO ON M6K1J6

Between: Robert Dunlop Tenant

And

First Point Investment Landlord

Review Order

Robert Dunlop (the 'Tenant') applied for an order determining that First Point Investment (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.

This application was resolved by order LTB-T-043167-22 issued on September 4, 2025.

On September 25, 2025, the Landlord requested a review of the order and that the order be stayed until the request to review the order is resolved.

On September 29, 2025, interim order LTB-T-043167-22-RV-IN was issued, staying the order issued on September 4, 2025.

On October 23, 2025, interim order LTB-T-043167-22-RV-IN2 was issued, granting the review and directing the application to be reheard.

This application was reheard by videoconference on November 20, 2025.

The Landlord's Legal Representative, C. Nastas, the Landlord's Agent, J. Morriello, the Tenant's Legal Representative, S. Mason, and the Tenant attended the hearing.

Determinations:

1. As explained below, the Tenant did not prove the allegations contained in the application on a balance of probabilities. Therefore, the application is dismissed

2. As per the application, this tenancy commenced on February 1, 2012. The stated monthly rent in the application is \$1,006.85. The Tenant's rental unit is one of four units in the residential complex.
3. In this application, the Tenant alleges that the Landlord breached sections 22 and 23 of *the Residential Tenancies Act*, 2006 (the 'Act') by issuing numerous notices of termination and filing applications at the LTB without merit in an attempt to evict the Tenant, and by verbally threatening to evict the Tenant.
4. Section 22 of the Act provides that:

A landlord shall not at any time during a tenant's occupancy of a rental unit and before the day on which an order evicting the tenant is executed substantially interfere with the reasonable enjoyment of the rental unit or the residential complex in which it is located for all usual purposes by a tenant or members of his or her household.

5. Section 23 of the Act provides that:

A landlord shall not harass, obstruct, coerce, threaten or interfere with a tenant.

6. Harassment is not defined in the Act, however it is generally accepted that harassment is a course of conduct that a person knows, or should know, would be unwelcome by the other person, which is pursued for no legitimate, lawful purpose.
7. This application was filed on August 8, 2022 pursuant to section 29 of the Act. Subsection 29(2) of the Act provides that:

No application may be made under subsection (1) more than one year after the day the alleged conduct giving rise to the application occurred.

8. Caselaw has supported that the one-year limitation period found in subsection 29(2) of the Act also applies to the allotted period for a remedy sought by the applicant.
9. Therefore, in this case the one-year limitation period is from August 9, 2021 to August 8, 2022 with respect to the Tenant's alleged breaches of the Act by the Landlord and any remedy requested. If there is no breach found in this period of time, then we can not look at continued allegations after the application was filed. Specifically, the Tenant must prove the breaches in the one year leading up to the filing of this application.
10. It was not disputed that the Landlord has provided the Tenant with the following notices of termination which were entered into evidence (DOC-284344pgs1-27) and (DOC-4540165pgs3-8) to provide a history and/or support for the Tenant's assertions in this application:
 - N5 Notice pursuant to section 64 of the Act for leaving twenty garbage bags at the side of the building not where garbage is normally left dated March 13, 2019 which provided a termination date of April 1, 2019;

- N5 Notice pursuant to section 64 of the Act for storing items in the laundry room dated April 11, 2019 with a termination date of May 8, 2019;
- N5 notice pursuant to sections 62 and 64 of the Act for storing items in common areas, near fire exit, being antagonistic toward the Landlord, smoking in the unit, changing the lock on the common area laundry room, garbage on property, parking in between parking spaces and not allowing access to other vehicles, dated July 8, 2019 with a termination date of August 3, 2019;
- N7 notice pursuant to section 66 of the Act for storing items in the common areas in the shared exit vestibule dated July 8, 2019 with a termination date of July 24, 2019;
- N5 notice pursuant to sections 62 and 64 of the Act for storing items at front entrance, blocking entrance with a garbage bin, blocking furnace room door, blocking entrance to the apartment with a freezer and bicycle, installing window A/Cs without consent damaging the windows, condition of rental unit attracting pests, issue with electrical cords, smoking in the unit, and disturbing behaviour such as loud music, leaving garbage in hallways, and smoking dated December 12, 2019 with a termination date of January 2, 2020;
- N7 notice pursuant to section 66 of the Act for letting other people use the laundry room who are stealing other tenant's clothes, blocking hallway to utility room in breach of fire code and order from fire department, wilfully damage to the residential complex by smoking in the building dated December 2, 2021 with a termination date of December 31, 2021;
- N5 notice pursuant to sections 62 and 64 of the Act for willful or negligent damage by removing two windows and installing A/C units, tied a dog to the indoor railings in the common area, howling and defecating in the area which was not cleaned up, dated March 8, 2022 with a termination date of April 4, 2022; and
- First N5 notice pursuant to sections 62 and 64 of the Act for same reasons as above plus the following complaints: noise disturbances due to speaking loudly, phone on high volume speaker, loud TV, other disturbances such as urinating in the foyer, on seven occasions dates provided smoking beneath other tenant's window which caused smoke to enter their unit, only wearing underwear and blocked access to laundry room, urinated in the drains, and was smoking, as on two other occasions urinated on the back lawn and in the entryway to the laundry room dated July 22, 2022 with a termination date of August 19, 2022

11. There was also no dispute that the Landlord filed applications at the LTB which resulted in the following orders which were provided into evidence those prior to filing the application (DOC-284344pgs28-37) and those after filing the application (DOC-4540165pgs10-12 and pgs16-30) to provide a history and/or support for the Tenant's assertions in this application:

- Hearing date – September 24, 2019 – order TSL-08211-19 issued September 27, 2019 dismissing the application;
- Hearing date – November 10, 2021 – order TSL-14075-20 issued on November 24, 2021 dismissing the application;
- Hearing date – February 8, 2022 – order TSL-25760-21 issued on March 30, 2022 dismissing the application;

- Hearing date – August 22, 2023 – consent order LTB-L-045527-22 issued on September 7, 2023 requiring the Tenant meet conditions or the Landlord could file pursuant to section 78 of the Act but denying the Landlord's claim for reasonable costs to repair/replace the damage;
 - Hearing date – March 21, 2024 – L4 order LTB-L-093147-23-AM issued on April 25, 2024 terminating the tenancy as of June 30, 2024;
 - Hearing date – June 25, 2024 – review order LTB-L-093147-23-RV issued on July 11, 2024 granted the Tenant's review and cancelled the previous L4 order;
 - Ex-parte L4 order LTB-L-056337-24 issued on July 31, 2024 terminating the tenancy as of August 11, 2024; and
 - Hearing date – Motion – September 26, 2024 – Set Aside order LTB-L-056337-24-SA issued on October 3, 2024 granting the Tenant's motion and setting aside L4 order LTB-L-056337-24 issued on August 11, 2024.
12. The Tenant testified that every time the Landlord sees him he says that he is "going to get you out no matter what." The Tenant also testified that he received these threats from the Landlord while in his rental unit and in the laundry room. The Tenant also testified that he believes the Landlord wants the unit so that he can jack up the rent, double it. The Tenant further testified that all the notices of termination, hearings before the LTB, and waiting for orders made him nervous about being evicted.
13. Under cross-examination, the Tenant agreed that if the Landlord receives a tenant complaint he has an obligation to address it which would include issuing a notice of termination. Under cross-examination, the Tenant also agreed that order LTB-L-045527-22 issued on September 7, 2023 was on consent and that if there was a breach within one year, the Landlord would have the right to file another application for that breach. Under cross-examination, the Tenant also agreed that he acknowledged smoking only two feet outside the door to the complex on June 16, 2024 as stated in order LTB-L-056337-24-SA.
14. Under cross-examination, with respect to paragraph 14 in order, TSL-25760-21 issued on March 30, 2022, based on the N7 Notice of termination December 2, 2021, the Tenant agreed that while although the Member was satisfied that there were times the Tenant's personal belongings were blocking the utility room door, they were not satisfied that this conduct seriously impaired the safety of anyone in the complex. Also, under cross-examination, with respect to paragraph 15 of this same order, the Tenant agreed that the Member was also satisfied that the Tenant had cleared this clutter.
15. The Landlord testified that the Tenant is paying market rent and he does not want to evict him. He testified that he just wants to keep the Tenant orderly because when he serves a notice of termination the Tenant does comply given that the unit is now cleaned up. The Landlord also testified that the only continued issue he has is the Tenant smoking in the building.
16. The Landlord testified that he gave the Tenant a second N5 notice of termination on March 8, 2022 because the Tenant had removed the window and replaced it with foam and an air conditioner. The Landlord also testified that order LTB-L-056337-24-SA issued on October 3, 2024, at paragraph 2 determined that the Tenant acknowledged that he was only two feet outside the door when he was smoking and was ordered to not smoke in his unit. The Landlord further testified that smoking was an issue outside because the Fire

Department was previously called due the cigarette pile outside the laundry room catching fire.

17. The Landlord maintained that the Tenant was still smoking in the unit and that he received an order for termination based on this breach. The Landlord confirmed that the order was then stayed and subsequently dismissed. He testified that he is afraid to serve any further notices even though the Tenant's smoking in the unit is on-going and the Tenant is currently owing rent arrears for two months.
18. Under cross-examination, when asked about order LTB-L-056337-24-SA, issued on October 3, 2024 and why this application failed, the Landlord responded that he believed it was because the Tenant fixed the issues, complied. When asked again about that order and why it was dismissed, the Landlord responded that he believe that the Tenant's Legal Representative convinced the Member that the Tenant was not smoking in the building which is clearly a lie because the Tenant is continuing to smoke in the unit.
19. Under cross-examination, when asked if he had ever told the Tenant that he wanted to evict him, the Landlord responded that he told him if he did not clean up his act that he will evict him. Under cross-examination when asked about the Tenant's specific quote "I will evict you no matter what," the Landlord responded at least twice that this "was not true" and "he would never say that." Under cross-examination, the Landlord maintained that he gave notices of termination and all applications were for an eviction only if the Tenant did not clean up his act which is why the Landlord believed some orders were reversed as the Tenant has cleaned up somethings.

Notices of termination and applications

20. Based on the evidence before me, I was not satisfied that the notices of termination or the applications filed by the Landlord in the relevant period preceding this application amounted to harassment and substantially interfered with the Tenant's reasonable enjoyment of the premises. The Tenant did not provide any evidence in support his assertion with respect to the notices of termination being without merit and simply relied on the decisions rendered by the LTB. The Landlord provided testimony with respect to the allegations raised in the notices of termination at the time those notices were served.
21. The Tenant relied on the decisions of the LTB to demonstrate that the Landlord's allegations and applications were without merit. However, I am satisfied that a dismissal of an application more likely than not only demonstrates that the applicant did not meet their burden in that application, not necessarily that the allegations in the notice were completely without merit. An application before the LTB can be dismissed for any number of reasons, some simply due to technical reasons such as issues with the contents of a notice, which occurred in both of the proceedings filed by the Landlord in the relevant time period for this application.
22. In the relevant time period for this application, being August 9, 2021 to August 8, 2022 when the application was filed, the Tenant received the following notices of termination:
 - A N7 notice dated December 2, 2021 alleging that the Tenant let other people use the laundry room who are stealing other tenant's clothes, blocked hallway to utility

room in breach of fire code and order from fire department, wilfully caused damage to the residential complex by smoking in the building;

- A N5 notice dated March 8, 2022 alleging that the Tenant wilfully or negligently caused damage by removing two windows and installing A/C units, tied a dog to the indoor railings in the common area, which led the dog to howling and defecating in the area which was not cleaned up; and
- A first N5 notice dated July 22, 2022 alleging that the Tenant wilfully or negligently caused damage by removing two windows and installing A/C units, caused noise disturbances due to speaking loudly, phone on high volume speaker, loud TV, other disturbances such as urinating in the foyer, smoking beneath other tenant's window which caused smoke to enter their unit, only wearing underwear and blocking access to laundry room, urinating in the drains, and was smoking in the building.

23. The Landlord provided specific evidence in support of the allegations raised in the notices of termination served on the Tenant. The Landlord testified that he served a N5 notice on March 8, 2022 because the Tenant had removed the window and replaced it with foam and an air conditioner. The Landlord also testified that the Tenant was smoking within two feet outside of the building and that this was an issue because of a fire that had previously occurred outside the laundry room. The Landlord further testified that the Tenant continues to smoke inside his unit which is against their agreement and/or the rules. The Landlord also testified that the Tenant had corrected his behaviour and fixed the issues related to his personal items being stored outside the utility room.
24. The Tenant did not dispute any of the above allegations in the notices served in the relevant time period. Additionally, during the hearing, the Tenant who was on video participating from his rental unit, was heard requesting cigarettes from someone else in the room (hearing recording time 1:20:06), then appeared on video smoking and asking that same other person in the room to pass him the ashtray (hearing recording time 1:23:25). Given the conduct of the Tenant, I was satisfied that the Landlord's continued allegation that the Tenant is smoking in the rental unit has merit. As well, I was satisfied that this conduct by the Tenant also disparages his credibility with respect to his testimony today, any previous testimony and/or any submissions regarding this specific allegation.
25. In the relevant time period for this application, being August 9, 2021 to August 8, 2022 when the application was filed, only two LTB decisions were rendered: order TSL-14075-20 issued on November 24, 2021 and order TSL-25760-21 issued on March 30, 2022.
26. Although, order TSL-14075-20 issued on November 24, 2021 dismissed the Landlord's application, I was satisfied that it was only dismissed on a technical ground and that the allegations in the N5 notice at the root of this application were not tested. Therefore, I cannot be satisfied that the notice or application was without merit.
27. Order TSL-25760-21 issued on March 30, 2022, was an application filed by the Landlord based on the N7 notice dated December 2, 2021 served on the Tenant. Although, the Landlord's application was dismissed, in this order, the Member determined the following as paragraph 12, "there was no dispute that there have been periods of time when the Tenant's belongings have cluttered the hallway and blocked access to the utility room." Despite this, the Member simply disagreed that this hallway clutter and blockage of the utility door seriously impaired the safety of others in the building. The Member also

determined that they were satisfied that the Tenant has since cleared away any clutter such that the utility room door is accessible and therefore even if they were satisfied that it was a serious impairment of safety, relief from eviction would be granted.

28. Given the findings in this application, I was satisfied that the allegations in the notice were not simply without merit, it was more likely than not that they did not rise the threshold required for a finding of serious impairment of safety. In any event, if they had risen to that level, the Member also determined that relief from eviction would be granted.
29. A landlord has a right to serve a tenant with a notice of termination pursuant to the Act and file an application to have the LTB determine the issues. In this case, the Landlord applications were dismissed. There was no dispute that the Tenant had the opportunity to dispute the allegations, and had Legal Representation at both hearings. In these circumstances, I was not satisfied that the service of these notices or these two proceedings amount to harassment as some of the allegations were not without merit or simply being pursued for no illegitimate purpose. The Landlord maintained that his reasoning for issuing a notice was a result of complaints from other tenants and an attempt to correct the conduct which was successful as determined in order TSL-25760-21 issued on March 30, 2022 as the clutter was removed.

Verbal Threats

30. The Tenant testified that the Landlord verbally threatened whenever he saw him by stating that he was "going to get you out no matter what." This allegation was denied by the Landlord, twice, as the Tenant's Legal Representative continued to ask specifically about this issue until he was instructed by me on his third attempt to ask a different question. The Landlord maintained under cross-examination that his sole reasoning for any of the notices is to correct the Tenant's conduct as he has to address concerns from other tenants in the residential complex. The Landlord did acknowledge that he told the Tenant that he will evict him if he does not clean up his act.
31. The Act is predicated on a remedial nature. The Landlord's comment to the Tenant is not incorrect, an eviction ought to only occur when a breach cannot be corrected. Therefore, I do not find that this comment amounted to a threat of unlawful eviction. The Tenant did not dispute the allegations raised by the Landlord. Additionally, given the Tenant's conduct of smoking while in the rental unit during this hearing, which is one of the issues raised by the Landlord, I found the Landlord's evidence more credible.
32. Consequently, the Tenant's application is dismissed.

It is ordered that:

1. The Tenant's application is dismissed.

January 8, 2026
Date Issued

Lisa Del Vecchio
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.