



Order under Section 69 Residential Tenancies Act, 2006

File Number: LTB-L-075282-25

In the matter of: 3, 117 1/2 Walter St
Kitchener ON N2G1S3

Between: Marguerite Niebergall Landlord

And

Ken Dougherty Tenant

Marguerite Niebergall (the 'Landlord') applied for an order to terminate the tenancy and evict Ken Dougherty (the 'Tenant') because the Tenant, another occupant of the rental unit or someone the Tenant permitted in the building has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord in a building that has three or fewer residential units and the Landlord resides in the building.

This application was heard by videoconference on January 5, 2026.

Only the Landlord and the Landlord's representative Mark Niebergall attended the hearing.

As of 9:37am, 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.

Reasons:

1. In April, 2025, the Landlord noticed an odour of rotting garbage or sewage coming from the Tenant's unit. The odour substantially interfered with the reasonable enjoyment of the Landlord, who lives in the building, and of the tenant of the third unit in the building.
2. The Landlord spoke to the Tenant about the odour, and he promised to have the unit cleaned, but did not do so. The Landlord inspected the unit and found that the odour was coming from a large amount of rotting garbage and sewage which the Tenant had accumulated in the unit.
3. In September, 2025, the Landlord served an N7 notice to terminate the tenancy because of substantial interference with her reasonable enjoyment. After the N7 had been served, the odour continued.

4. I have considered all the disclosed circumstances, and find that it would be unfair to postpone or deny eviction pursuant to section 83 of the *Residential Tenancies Act, 2006* (RTA).
5. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

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 17, 2026.
2. If the unit is not vacated on or before January 17, 2026, then starting January 18, 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 18, 2026. The Sherrif is requested to expedite the enforcement of this order.
4. The Tenant shall pay 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 23, 2026, the Tenant will start to owe interest. This will be simple interest calculated from January 24, 2026 at 4.00% annually on the balance outstanding.

January 12, 2026
Date Issued

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 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 18, 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.

