



Order under Section 69 Residential Tenancies Act, 2006

Citation: Walker v Forest, 2026 ONLTB 5768

Date: 2026-01-22

File Number: LTB-L-079838-25

In the matter of: 304, 1957 JASMINE CRES
GLOUCESTER ON K1J7Z4

Between: Jason Walker Landlord

And

Sebastien Forest Tenant

Jason Walker (the 'Landlord') applied for an order to terminate the tenancy and evict Sebastien Forest (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.

This application was heard by videoconference on January 13, 2026.

The Landlord, the Landlord's witness, Mary Castillo, and the Tenant attended the hearing. Although the Landlord's second witness, Ifeoma Okongi ('IO'), initially signed into the hearing, they had disconnected when the hearing commenced. The Landlord called the phone number for IO, and while to call was not redirected to voice mail, IO did not answer the Landlord's call. It was only after the hearing had been completed and the parties had left the hearing room that IO called back into the hearing.

Determinations:

Preliminary Issue

Landlord's documentary evidence

1. During the evidence of the Landlord's witness, it came to my attention that the Landlord's evidence had been uploaded to the Board's file the day of the hearing (both in the morning and in the afternoon, just before the hearing commenced). The Landlord confirmed that he had not served the Tenant with any of the Landlord's evidence. He stated that it was his first time before the LTB and did not understand that he had to serve his evidence on the Tenant or the timeframes for same.

2. The Board's Rule 19 addresses disclosure and evidence. In particular, 19.1 provides as follows:

Unless the LTB has directed or ordered otherwise, all parties to a matter that has been scheduled for a CMH or a hearing must provide the other parties and the LTB with a copy of all documents, pictures and other evidence that the party intends to rely upon at least 7 days before the CMH or hearing. The evidence must be provided to the other parties using one of the methods of service identified in the RTA or Rule 3

3. Given the prejudice to the Tenant in not having been provided with an opportunity to review the Landlord's evidence nor provide responding documentary evidence, the documents uploaded to the Board's file on January 13, 2026 will not be considered as evidence.

The Application

4. As explained below, the Landlord has not proven on a balance of probabilities the grounds for termination of the tenant. Therefore, the application is dismissed.
5. The Tenant was in possession of the rental unit on the date the application was filed.
6. On April 17, 2025, the Landlord gave the Tenant a first, voidable N5 notice of termination, deemed served on April 22, 2025. The notice alleged that the Landlord had received noise complaints (i.e. loud banging) emanating from the Tenant's unit on April 14 and 16, 2025.
7. Section 68(1) of the *Residential Tenancies Act*, 2006 (the 'Act') provides that a second notice of termination may be given if 1) the landlord has already given the tenant a notice of termination under section 62, 64 or 67; and 2) more than 7 days, but less than six months after the first notice was given, an activity takes place, conduct occurs or a situation arises that constitutes grounds for a notice of termination under section 60, 61, 62, 64 or 67.
8. Therefore, the Landlord was allowed to give the Tenant a second, non-voidable N5 notice of termination under section 68 of the *Residential Tenancies Act*, 2006 (Act).
9. On September 22, 2025, the Landlord gave the Tenant a second N5 notice of termination, deemed served on September 27, 2025, alleging that on September 21, 2025, the Landlord had received another complaint about loud noise from the Tenant's unit and that a by-law officer confirmed the noise and issued a notice.

The Landlord's evidence

10. The Landlord confirmed that the residential complex is comprised of four buildings, each of which contain sixty-four (64) units.
11. The Landlords' witness, Mary Castillo ('MC') stated that she has been the building manager at the residential complex for three years. She stated when she received the September 21, 2025 complaint about noise emanating from the Tenant's unit, the complainant also sent her audio of the noise. After listening to same, she advised the complainant to call the by-law office. MC stated that by-law attended at the unit and issued a notice to the Tenant.

12. MC stated that on average, she receives approximately five noise complaints per year regarding the Tenant's building. She said that when she receives a complaint, she sends a letter to the tenant suspected of being the source of the complaint and then follows up with the complainant to confirm that the noise has ceased.
13. MC stated that after the N5 notice was served, she received a further noise complaint regarding the Tenant on December 14, 2025. She stated that since the Landlord had already filed this application, she did nothing with respect to the December 14, 2025 complaint.
14. The Landlord stated that the residential complex is a wood-frame structure and admitted that the soundproofing is poor.

The Tenant's evidence

15. The Tenant does not deny that he was making a banging sound in the unit on September 21, 2025 or that a by-law officer attended at his unit on September 21, 2025. He stated that he did not speak to the by-law officer. Instead, he found a warning notice about noise on his front door.
16. With respect to the noise on September 21, 2025, the Tenant stated that he was at his wits end after enduring continuous and ongoing noise from the unit above. He stated that the tenants above his unit moved in about four years ago and since that time he has had to endure noise caused by their child which keeps him up at night. Despite repeated complaints to the Landlord, the Landlord has failed to take any steps to eliminate the noise from the unit above him.
17. As evidence of his complaints about noise from the unit above, the Tenant stated that he filed a previous T2 application (i.e. LTB-T-030599-24) but admitted that it was dismissed. He also produced a complaint he sent to the Landlord about the noise [7091224] on August 17, 2022. He admitted that this was the last noise complaint he made to the Landlord about the Tenants above him, stating that given the Landlord's failure to do anything, he just gave up.
18. The Tenant stated that he has lived in the unit for twenty-five years (i.e. since 2000) and it is his belief that the Landlord is using the application as a way to evict him so that he can rent the unit for a much higher rent.

Analysis

19. Based on the evidence before me, I am satisfied that Tenant created noise on September 21, 2025 which interfered with the enjoyment of another tenant. I am not satisfied, however, that this conduct rises to the level of substantial interference with the Landlord's or another tenants' reasonable enjoyment of the residential complex. I say this for the following reasons.
20. First, the tenant who lodged the noise complaint against the Tenant on September 21, 2025 did not attend the hearing to provide evidence about the noise. The Landlord did not produce any audio of the noise. As such, I am unable to determine how long the noise disturbance lasted, how loud it was or how it impacted the complainant (e.g. did it interfere with work).

21. Second, while the Landlord stated that he did not want any more vacant units, he produced no evidence that vacant units in the residential complex were the result of noise from the Tenant's unit.
22. As such, I find that the Tenant's conduct has not substantially interfered with the Landlord's and another tenants' reasonable enjoyment of the residential complex nor does this conduct substantially interfere with a lawful right, privilege or interest of the Landlord or another tenant.
23. Therefore, the Landlord's application is dismissed.

It is ordered that:

1. The Landlord's application is dismissed.

January 22, 2026
Date Issued

Karen Gonçalves
Member, Landlord and Tenant Board

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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.