



Order under Section 69 Residential Tenancies Act, 2006

Citation: O'Donnell v Creasey, 2026 ONLTB 5934

Date: 2026-01-16

File Number: LTB-L-061939-25

In the matter of: Lower, 187 MURRAY ST
AMHERSTBURG ON N9V1J7

Between: Shelby O'Donnell Landlord

And

Mark Creasey Tenant

Shelby O'Donnell (the 'Landlord') applied for an order to terminate the tenancy and evict Mark Creasey (the 'Tenant') because:

- the Tenant or another occupant of the rental unit has committed an illegal act or has carried out, or permitted someone to carry out an illegal trade, business or occupation in the rental unit or the residential complex;
- 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 Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on November 3, 2025.

The Landlord, the Landlord's legal representative, K. Jarvis, the Tenant, and the Tenant's legal representative, C. Hall, attended the hearing. J. King, and M. O'Donnell, also attended as the Landlord's witnesses and B.J. Wilder and B.J. Wiley, attended as the Tenant's witnesses.

Preliminary Issues:

Landlord's preliminary issue – Tenant's late filing of evidence

1. As a preliminary issue, the Landlord's representative requests that the Tenant's evidence not be considered as it was not served in compliance with Rule 19.1 of the Board's Rules of Procedure.

2. Rule 19.1 provides that, 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. In this case, the Landlord argues that evidence was received 5 days before the hearing date. The Tenant's representative submits that although the evidence was served 2 days late, it is enough time for the Landlord to review the material.
3. I asked the Landlord's representative if they required an adjournment to review the evidence filed. The Landlord's representative at that time, submitted that they had an opportunity to review the evidence and discuss with their client. The Landlord's representative acknowledged that there is no prejudice to proceed with the Tenant's evidence, as such, the Tenant's evidence was permitted.

Tenant's preliminary issue – Validity of N7 notice

4. The Tenant's representative raised a preliminary issue with respect to the N7 notice of termination filed by the Landlord. The Tenant's representative argues that the issues raised in the notice do not amount to serious impairment of safety. The Landlord sought to withdraw the N7 notice portion of the application. The Tenant was not opposed, and I consented to the request.
5. As such, the merits of the application were heard on the basis of the N6 notice of termination only.

Determinations:

6. As explained below, the Landlord has not proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the Landlord's application is dismissed.
7. The Tenant was in possession of the rental unit on the date the application was filed.
8. This application is filed pursuant to section 61 of the *Residential Tenancies Act, 2006*, the ("Act"), which provides that, a landlord may give a tenant notice of termination of the tenancy if the tenant or another occupant of the rental unit commits an illegal act or carries on an illegal trade, business or occupation or permits a person to do so in the rental unit or the residential complex.
9. On July 28, 2025, the Landlord gave the Tenant an N6 notice of termination with a termination date of August 31, 2025. The notice of termination alleges that the landlord or someone living with the tenant has committed an illegal act at the residential complex, in this case, physical assault.
10. It was undisputed that the residential complex has two self contained units. The parties dispute whether the laundry room is a considered a common area within the residential complex.

Landlord Evidence

Testimony of Michelle O'Donnell

11. Michelle O'Donell (MO), the Landlord's mother, testified that she provides support to her daughter in maintaining and renting the residential complex. On November 8, 2024, MO testified that she attended the rental unit with her friend Sandy and a potential tenant, Jeff King (JK), for a showing of the upper unit at approximately 1:00pm. MO asserts that the laundry area is a common area and submitted a copy of the lease agreement to substantiate her claim.
12. MO asserts that during the showing of the laundry room, the Tenant came out of his unit yelling, alleging that they were trespassing. MO asserts that the Tenant pushed her causing her to fall against the dryer, resulting in a shoulder injury, a rip in her rotator cuff. MO asserts that the Tenant also pushed JK. Her friend Sandy immediately called police. A copy of the audio of the police call was submitted into evidence. In the call, the complainant identified themselves as "Sandra Litt" and stated that all three individuals were pushed by the Tenant, but no injuries had been sustained by either party.
13. MO testified that at the time of the incident the Tenant repeatedly stated, "get the F*** out of my house", MO was left in shock and now fears the Tenant. MO asserts that JK did not rent the unit as a result of the altercation.
14. MO did not submit any documentary evidence, such as doctor notes or medical exams in support of the alleged sustained injury. In cross examination, MO testified that her doctor told her there was nothing she could do about the injury. At the time of the incident, medical attention was not required as she was in shock and did not realize she was injured. MO did not file charges against the Tenant.

Landlord Testimony

15. The Landlord testified that although she was not present when the altercation occurred, she received a call from her mother on the same day where MO advised her that JK would not be renting the unit as a result of the incident.
16. The Landlord testified that the residential complex is a duplex, with an upper and lower unit. She purchased it on May 15, 2024. The Landlord testified that the upstairs tenant vacated the unit on July 30, 2024, as a result, the unit was being viewed by several individuals. Because the laundry room is a common area, the Landlord argues that notices to enter are not required.
17. In cross examination the Landlord testified that her unit has never been classified as a single-family home and has been told by By-law that she could rent the upstairs unit. The Landlord asserts that By-law has classified the residential complex an "R3" which has a multitude of meanings. The Landlord concedes that no further incidents have occurred since November 8, 2024.

Testimony of Jeff King

18. Jeff King (JK), testified that he attended the residential complex on November 8, 2024 to view the upstairs unit. JK testified that MO advised him that the laundry room was a shared space, while in the laundry room, JK asserts that the Tenant came out screaming and yelling "to get the f*** out". JK asserts that the Tenant came at him with both hands opened

and pushed him away and confronted MO who was left in the laundry room. JK asserts that he witnessed the Tenant grab MO by both arms and shoved her out of the way towards the laundry machines and told MO "I told you before you can't do this". JK did not see the Tenant push Sandra.

19. The Landlord requests termination of the tenancy.

Tenant Evidence

Testimony of Officer B.J. Wiley

20. Police officer B.J. Wiley (BJW), testified that he attended the residential complex in response to the 911 calls made by both the Tenant and Sandra. When he arrived on scene, he spoke with MO. BJW does not recall MO complaining of an injury, however, there was an allegation of a potential assault from MO and an allegation of a break and enter by the Tenant. BJW testified that there was a clear misunderstanding on what constitutes a common area. Because he is not familiar with such issues, BJW contacted Angelo Avolio, the head of the building department for the Town of Amherstburg and was advised that By-law has spoken to the Landlord many times advising that the laundry room is not a common area. Due to the discussion with Angelo Avolio, BJW determined that the Tenant was properly defending a possible break and enter.
21. BJW testified that if an assault occurred, it was minor in nature. As a result, he requested the parties to be civil with each other and to address any residential disputes with the LTB. BJW testified that he advised MO that if she decided to press assault charges against the Tenant, he would also have to press charges against her for a break and enter as By-law has clarified that the laundry room is not a common area.

Testimony of By-law Officer Benjamin James Wilder

22. Benjamin James Wilder (By-law), testified that he is employed as a manager for the Licensing and Enforcement unit for the Town of Amherstburg. At the time of the incident, he was a By-law Enforcement Officer and had previously received complaints from the Tenant with respect to living and building code conditions. The By-law officer testified that the residential complex has not been registered as a duplex and is considered a single-family dwelling.
23. The By-law officer testified that in order for a property to be considered a duplex, that property must be registered and comply with the building code. The By-law officer first inspected the residential complex on July 25, 2025. At such time, the By-law officer invited the fire department to conduct an inspection of the property and assisted the building department to conduct electrical inspections and make determinations on any dwelling deficiencies to put the residential complex in compliance. Eventually, the By-law officer transferred the file to the building code department and is unaware of where the file currently sits.
24. In cross-examination, the By-law officer testified that he first became aware of the laundry room in the residential complex when he conducted his first inspection on July 25, 2024.

Despite the building code issues, the Tenant at that time agreed that the laundry was a common area.

Tenant's Testimony

25. The Tenant submitted e-mail dated October 21, 2025 from Angelo Avolio, Manager, Building Services and CBO for the Town of Amherstburg, the e-mail states as follows:
26. The Tenant asserts that because the chief building inspector has considered the residential complex as a single-family dwelling, he believed that people were breaking into his home on November 8, 2024.
27. The Tenant testified that on November 8, 2024, he went home for lunch and closed his door. After a few moments he heard voices. The laundry room is in the front of his door and as soon as he opened his unit door, he saw 3 strangers in a 4x4 hallway. The Tenant concedes that he became angry and began to exchange words with the parties. The Tenant denies ever touching any of the individuals present. The Tenant asserts that MO was never given authority to attend the property and that because the space was so small, she may have felt assaulted but asserts that he never laid a hand on either party. The Tenant immediately contacted police. A copy of the police report was submitted into evidence.
28. The Tenant testified that since the date of the incident, the Landlord attended the property a second time on December 30, 2024, however, no further altercations have taken place. The Tenant testified that he was unaware the lease included the laundry as a common area as he has signed two leases in total and did not realize the second lease contained such clause.
29. In cross-examination, the Tenant conceded that he shared the laundry room with the upstairs tenant when the unit was occupied but at no given time did the previous owner ever enter the unit without notice as the laundry room was only meant to be shared by the tenants of the residential complex.

Analysis

30. Based on the evidence and submissions before me, on a balance of probabilities, I find that the Landlord has not proven that the Tenant has committed an illegal act in the residential complex.
31. I agree with Police Officer, BJW. It is evident that there is miscommunication with respect to the use of the laundry. Although the Tenant concedes that he shares the laundry room with other tenants, the Tenant takes the position that the laundry room is not a common area to be used by the Landlord, thus the Landlord has no authority to enter without notice. The lease agreement suggests that the laundry room is a common area, however, the Town of Amherstburg has determined that the residential complex is a single-family dwelling. No evidence to the contrary was submitted by the Landlord. As a result, on a balance of probabilities, I find that the Landlord had no right to enter the residential complex without notice. In the circumstances, it is reasonable for the Tenant to have a negative reaction to seeing 3 strangers in the home.
32. With respect to the allegation of assault, I find the Tenant's testimony credible and find that he did not assault JK or MO. The 911 call made by Sandra suggest that all 3 individuals were pushed by the Tenant. JK testified that he did not see the Tenant push Sandra, BJW testified that only MO alleged an assault. Neither JK or MO filed assault charges against the Tenant, no injury reports were submitted to police. MO testified that she injured her shoulder, however, failed to submit any documentary evidence such as medical reports to substantiate her claim. As a result of the contradicting testimony and lack of documentary evidence, I find it more likely than not that the Tenant did not assault MO or JK.
33. Even if I am wrong in my determination, I am not satisfied that the incident constitutes the termination of the tenancy. Both the Landlord and the Tenant concede that no further incidents have occurred since November 8, 2024. As a result, the Landlord's application is dismissed.
34. This order contains all the reasons within it no further reasons will be issued.

It is ordered that:

1. The Landlord's application is dismissed.

January 16, 2026
Date Issued

 Mayra Sawicki
 Member, Landlord and Tenant Board

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