



Order under Section 69 Residential Tenancies Act, 2006

Citation: Escandon v Gorman, 2026 ONLTB 724

Date: 2026-01-06

File Number: LTB-L-059883-25

In the matter of: UPPER, 106 ARTHUR ST N
GUELPH ON N1E4V2

Between: Maria Claudia Escandon Landlord

And

Gayle Gorman Tenant

Maria Claudia Escandon (the 'Landlord') applied for an order to terminate the tenancy and evict Gayle Gorman (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.

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 12, 2025.

The Landlord, The Landlord's Legal Representative Paul Startek and the Tenant attended the hearing.

Determinations:

1. As explained below, the Landlord has not proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the application is dismissed.
2. The Tenant was in possession of the rental unit on the date the application was filed.

N7 Notice of Termination

3. On June 18, 2025, the Landlord gave the Tenant an N7 notice of termination deemed served on the same date. The notice of termination alleges that the Tenant substantially

interfered with the reasonable enjoyment of the residential complex by the Landlord as the Tenant was smoking marijuana within the residential complex ('house'). The Tenant was requested to stop smoking marijuana in the house on December 21, 2024. However, the Landlord alleges the smoking continued specifically referring to occurrences February 9, June 2, 4 and 8, 2025. In the N7 notice of termination.

4. The following facts are not disputed between the parties:
 - a) The house consists of two units. The Tenant resides in the upper unit while the Landlord resides in the lower unit on the main floor;
 - b) The Tenant has resided in the rental unit since July 1, 2015;
 - c) The Landlord first became aware that the Tenant was smoking marijuana in August of 2024;
5. The lease agreement does not restrict smoking in the rental unit.
6. The Tenant testified that when the Landlord became aware that she smoked marijuana she had asked the Landlord if it was an issue and the Landlord advised her it was not. The Landlord claims that it was not an issue as she believed the Tenant was only smoking outside and she did not smell it.
7. The Tenant claims that the first time the Landlord asked her to stop smoking marijuana in the rental unit was via an email sent on December 21, 2024 in response to an email the Tenant had sent the Landlord indicating that she would no longer be clearing snow from the front walkway and mailbox area, and believes that the response was retaliatory.
8. As a result of a subsequent email exchange between the parties on December 23, 2024 it was agreed the Tenant would no longer smoke in the house.
9. Since the agreement the Landlord testified that she still believed that Tenant smoked in the house. Specifically alleging an occurrence on February 9, 2025. Although the Landlord did not see the Tenant smoking marijuana indoors on the date in question she believed the Tenant was, as the Landlord had smelled marijuana while in her bedroom and no windows were open.
10. The Tenant testified that since the agreement between the parties she has not smoked inside the house.
11. The Landlord did not provide any evidence with respect to an incident alleged to have occurred on June 4, 2025 as it was related to her partner.
12. The evidence from the Landlord at the hearing was that the Tenant was smoking marijuana outside on the dates of June 2 and 8, 2025.

Analysis

13. Section 65(1) of the *Residential Tenancies Act, 2006* (the 'Act') states:

... A landlord who resides in a building containing not more than three residential units may give a tenant of a rental unit in the building notice of termination of the tenancy that provides a termination date not earlier than the 10th day after the notice is given if the conduct of the tenant, another occupant of the rental unit or a person permitted in the building by the tenant is such that it substantially interferes with the reasonable enjoyment of the building for all usual purposes by the landlord or substantially interferes with another lawful right, privilege or interest of the landlord.

14. In a case such as this the onus rests with the Landlord to prove on a balance of probabilities that the conduct of the Tenant interfered with a lawful right, privilege or interest of the Landlord. Subsection 65(1) makes it clear that the Landlord's onus includes establishing that the stated interference rises to the level of "substantial".
15. The Landlord claims smoking marijuana continued in the house after coming to an agreement with the Tenant that they would only smoke marijuana outdoors. The Landlord states the smoking of marijuana by the Tenant has substantially interfered with the Landlord. However the Landlord only provided evidence with respect to one incident of smoking occurring within the house after the agreement was entered into being February 9, 2025. The Landlord testified that she smelled marijuana while in her bedroom. The Landlord did not see the Tenant smoking in the house or provide any other specifics or details regarding the incident apart from smelling marijuana. The Tenant for her part testified that she hasn't smoked in the house since agreeing not to. I accept the evidence of the Tenant that she has not smoked in the house since entering into the agreement and confines her smoking to the outdoors while at the residential complex.
16. Although the Tenant smoking outdoors at the residential complex may be an irritant or an inconvenience for the Landlord I can not find on a balance of probabilities that the Tenant smoking outdoors at the residential complex rises to the level of substantial interference with the Landlord for the following reasons;
 - 1) The Landlord testified that she initially did not have any issue with the Tenant smoking outdoors when she first learned that the Tenant smoked marijuana;
 - 2) The Landlord entered into an agreement with the Tenant via email correspondence that the Tenant would smoke outdoors; and
 - 3) The Landlord did not provide any testimony that at any point they asked the Tenant to stop smoking outdoors at the residential complex.
17. Accordingly the Landlord's application is dismissed.

It is ordered that:

1. The Landlord's application is dismissed.

January 27, 2026
Date Issued

Sean Ramage
 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.