



Order under Section 69 Residential Tenancies Act, 2006

Citation: Tran v MOORE, 2026 ONLTB 16793

Date: 2026-03-02

File Number: LTB-L-092921-25

In the matter of: BASEMENT, 7003 WELLINGTON ROAD 124
GUELPH ON N1H6J4

Between: Tram Tran Landlords
Hien Tran

And

Mike Moore Tenants
Issiak Hood

Tram Tran and Hien Tran (the 'Landlords') applied for an order to terminate the tenancy and evict Mike Moore and Issiak Hood (the 'Tenants') because:

- the Tenants, another occupant of the rental unit or someone the Tenants permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another Tenant (*N5 Application*).
- the Tenants have been persistently late in paying the Tenants' rent (*N8 Application*).

This application was heard by videoconference on February 19, 2026. The first-named Landlord and the first-named Tenant, who attended on behalf of both Tenants, attended the hearing.

Determinations:

1. As explained below, the Landlords have proven some of the allegations on a balance of probabilities the grounds for termination of the tenancy in the application. Therefore, the tenancy shall continue subject to conditions.
2. By way of background, the rental property is a two-bedroom basement unit in a rural setting. The Tenants also rent commercial space on the property from the Landlords.
3. On September 27, 2025, the Landlords gave the Tenants a first, voidable N5 notice of termination ('N5'). The N5 claims that the Tenants have:
 - smoked in prohibited areas;
 - used two parking spaces; and,
 - used a fire pit and trampoline at the rental unit.

Smoking in Prohibited Areas

4. The Landlord states that the Tenants have been smoking in a screened-in sunporch which is at the back of the rental unit which contravenes the no smoking provisions in the tenancy agreement.
5. The Tenant states that the parties had already agreed that the Tenants would no longer smoke in the sunporch. The Landlord agrees with this submission.
6. As such, a conditional order will issue.

Parking Spaces

7. The Landlord states that the Tenants have persistently used two parking spaces; however, they are only allotted one parking space in the lease. The Landlords did not provide a copy of the lease in evidence; however, she provided "excerpts" from the lease (Doc-7364397, pg. 21). However, there was no reference to parking spaces in the excerpts provided.
8. The Tenant explains that he parks his vehicles in front of his commercially rented space.
9. The standard of proof in proceedings before this Board is "proof on a balance of probabilities." By that standard, the party bearing the burden of proof must show with evidence that, "more likely than not", their assertions are true.
10. Given the Landlords cannot point to any reference in which the Tenants were told they had only one parking space, I am not of the view that the Landlords discharged their onus of proof. Further, there was no clear evidence to support whether the parking spaces form part of the commercial tenancy versus the residential tenancy. Given that the N5 notice states that this has been ongoing since February 2020, it is unclear how, if this presented a substantial interference with the Landlords' lawful rights and privileges, that the Landlords would not have taken steps sooner to enforce their rights. No order shall issue.

Fire Pit / Trampoline

11. The Landlord also alleges the Tenants have a fire pit and trampoline in the back yard. Both of these things, she states, are liabilities to her because of the safety risks associated with them.
12. The Tenant submits that the fire pit is a portable unit which he rarely uses. He also submits he had the Landlords' permission, at the beginning of the tenancy, to have a fire pit.
13. The trampoline is used by the Tenant's children and their friends. He also states that the trampoline has safety netting around it. The closest neighbours are an older couple who

do not have young children. Therefore, the Tenant states that it is highly unlikely neighbourhood children would be in his back yard using the trampoline unsupervised.

14. Section 64 of the *Residential Tenancies Act* ('the Act'), states: A landlord may give a tenant notice of termination of the tenancy if the conduct of the tenant, another occupant of the rental unit or a person permitted in the residential complex by the tenant is such that it **substantially interferes** with the reasonable enjoyment of the residential complex for all usual purposes by the landlord or another tenant or **substantially interferes** with another lawful right, privilege or interest of the landlord or another tenant. [Emphasis added]
15. The Landlords' evidence was that children might use the trampoline unsupervised or without the Tenants' permission. Although "substantial" is not defined in the Act, the common and ordinary meaning is of considerable size, importance, or worth. I do not find the risk that some children, of which there are none nearby, might attend the rental unit and injure themselves on a trampoline which has safety netting, does not rise to the level of substantial.
16. For the same reason, I am not persuaded the fire pit poses a substantial interference to the Landlords or other tenants. It is a portable unit and the Tenant's evidence was that he has not even used it for some time. No order shall issue.

N8 Notice of Termination ('N8')

17. On September 27, 2025, the Landlords gave the Tenant an N8 notice of termination alleges the Tenants have been persistently late in paying the Tenants' rent.
18. Section 58(1) of the Act states that a landlord may give the tenant a notice of termination if they persistently fail to pay the rent on the date it becomes due. Section 58(2) of the Act states that the termination date in the notice **shall** be at least the number of days set out in s. 44 and **shall** be the day a period of the tenancy ends.
19. Section 44 states that a notice to terminate a monthly tenancy shall be given at least 60 days before the termination date specified in the notice.
20. The termination date specified on the N8 notice was November 27, 2026. The Tenant's uncontested evidence is that rent is payable on the first of each month. Although the Tenants were given 60 days' notice, the period was not at the end of a period as required under s. 58(2) of the Act. Therefore, the Landlords' application cannot succeed.

It is ordered that:

1. The Landlords' L2 application pursuant to the N8 notice of termination is dismissed.
2. Regarding the Landlords' L2 application pursuant to the N5 notice of termination, the tenancy between the Landlord and the Tenants continues if the Tenants meet the conditions set out below.
3. For the duration of the tenancy, the Tenants shall refrain from smoking in the sunporch.
4. If the Tenants fail to comply with the conditions set out in paragraph 2 of this order, the Landlords may apply under section 78 of the *Residential Tenancies Act, 2006* (the 'Act')

for an order terminating the tenancy and evicting the Tenants. The Landlords must make the application within 30 days of a breach of a condition. This application is made to the LTB without notice to the Tenants.

5. The Tenants shall pay to the Landlords \$186.00 for the cost of filing the application.
6. The total amount the Tenants must pay the Landlords is \$186.00.
7. If the Tenants do not pay the Landlords the full amount owing on or before March 31, 2026, the Tenants will start to owe interest. This will be simple interest calculated from April 1, 2026 at 4.00% annually on the balance outstanding.

March 2, 2026
Date Issued

Jane Dean
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.