



Order under Section 69 Residential Tenancies Act, 2006

File Number: LTB-L-096775-25

In the matter of: 1, 211 BRITANNIA ST
STRATFORD ON N5A5Z6

Between: Fixtia Holdings Landlord

And

Robert Jones Tenant

Fixtia Holdings (the 'Landlord') applied for an order to terminate the tenancy and evict Robert Jones (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

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 February 24, 2026.

The Landlord, the Landlord's agent, Brittany Manzer, the Landlord's representative, Jennifer Smith, and the Tenant attended the hearing.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation in the application. However, the tenancy shall continue if the Tenant meets the conditions outlined below.
2. The Tenant was in possession of the rental unit on the date the application was filed.

N5 Notice of Termination - Substantial interference

3. On September 23, 2025, the Landlord gave the Tenant a first, voidable N5 notice of termination ("first N5 notice") with the termination date of October 14, 2025. The first N5 notice alleges the Tenant had been substantially interfering with the reasonable enjoyment of the Landlord and or other tenants of the residential complex by smoking in the rental unit, being aggressive, causing a disturbance, and shouting at others, from March 18, 2025 to September 16, 2025. 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).

4. On November 13, 2025, the Landlord gave the Tenant a second N5 notice of termination with the termination date of November 28, 2025 ("second N5 notice"). The notice of termination contains the following allegations: from October 2, 2025 to November 6, 2025, the Tenant had substantially interfered with the reasonable enjoyment of the Landlord and other tenants in the residential complex on the following dates: October 2, 2025; October 9, 2025; October 12, 2025; October 16, 2025; October 19, 2025; October 20, 2025; November 5, 2025; and November 6, 2025.
5. This application is regarding the Tenant smoking in the rental unit, which has substantially interfered with the reasonable enjoyment of other tenants in the residential complex.
6. The Tenant testified that he was not smoking in his rental unit, but if he were smoking in the rental unit, it is because the lease allowed for him to. The Landlord opposed this position and testified that the Landlord amended the smoking policy of the residential complex and made every rental unit non-smoking. The Landlord further testified that there are signs posted throughout the residential complex noting that smoking is not permitted inside the rental unit.
7. I find that the Landlord cannot unilaterally amend the terms of the original lease agreement without the consent of the Tenant. A copy of the smoke free policy was submitted into evidence by the Landlord and it was effective as of October 1, 2025. The Tenant in this situation did not agree to converting the rental unit from a smoking unit to a non-smoking unit, even though the Landlord provided them with notice to do so. However, what this order will address is whether or not the Tenant smoking in their rental unit has substantially interfered with the reasonable enjoyment of other tenants in the residential complex.
8. Brittany Manzer ("B.M.") was called forward as a Landlord witness. B.M. is the property manager of the residential complex and testified that she had spoken with the Tenant on numerous occasions regarding not smoking in the rental unit. On October 9, 2025, there was a unit inspection of the rental unit and a report generated. The inspection report was submitted into evidence and supports the Landlord's position that the rental unit was inspected and B.M. was present during this inspection. B.M. said that she could smell cigarette smoke in the rental unit during the inspection and that the odor was strong. She asked the Tenant if he was smoking in his rental unit and he would not answer her. When B.M. asked the Tenant again, he started to argue with her and pushing her out of the rental unit. B.M. noted the smoke alarm on the Tenant's wall required replacement because of nicotine build up.
9. On October 12, 2025, B.M. received another complaint from a tenant in the residential complex regarding a strong smoke odor emanating from the Tenant's rental unit. The complaint form was submitted into evidence by the Landlord and it supported their position regarding a complaint from a neighbouring tenant, who raised concerns the smell of the smoke was entering her rental unit from the Tenant's rental unit.
10. On October 19, 2025 and October 20, 2025, the Landlord received similar complaints to the one above from a neighbouring tenant, who also raised concerns of a strong smoke smell entering her rental unit from the Tenant's rental unit and the smell making her cough.

11. After the second N5 notice was served, B.M. testified the smoking complaints continued. On November 15, 2025, the Landlord received a complaint regarding the Tenant smoking in his rental unit all day, causing a strong odor outside his rental unit. A copy of this report was submitted into evidence by the Landlord and it also supports their position of receiving this complaint from a neighbouring tenant.
12. On January 30, 2026, another tenant in the residential complex that neighboured the Tenant's rental unit filed a complaint form regarding the Tenant smoking in the rental unit and a copy of this report was also submitted into evidence by the Landlord.
13. The Tenant was given the opportunity to cross examine B.M., however he refused to do so. He did not seriously dispute B.M.'s testimony or evidence.
14. The Landlord called Therese Theoret ("T.T") as a witness. T.T. testified that she is a tenant that also resides in one of the 16 units in the residential complex. T.T. said that on January 30, 2026, she returned home after being away since August 2025, and upon her return, she immediately smelt smoke emanating from the Tenant's rental unit. As a result of this strong odor, T.T. had to place a towel under her door to prevent the odor from entering her rental unit. Furthermore, T.T. purchased an air filter to keep the air clean in her unit. As a result of the Tenant smoking in his rental unit, T.T.'s sinuses have worsened.
15. The Tenant did not challenge T.T's evidence.
16. The Landlord also testified that on December 1, 2025, he visited the Tenant's rental unit and there was a strong smell of smoke. The Landlord said he spoke with the Tenant about not smoking in the rental unit, but the Tenant responded by saying he would do as he wants.
17. The Tenant did not dispute the Landlord's evidence.
18. On a balance of probability, I am satisfied that the Tenant smoking in his rental unit has substantially interfered with the reasonable enjoyment of the Landlord and other tenants in the residential complex. The Landlord's evidence was undisputed. B.M. testified to the strong smell of cigarette smoke during her visits to the rental unit. T.T. testified as to the impact the Tenant smoking in his rental unit has had on her. The Landlord testified how the Tenant smoking in the rental unit is impacting him financially as another tenant in the residential complex had already vacated as a result of the Tenant continuing to smoke in the rental unit.
19. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

Relief from eviction

20. The Tenant requested relief from eviction and was agreeable to no longer smoking in the rental unit for the duration of the tenancy. The Tenant is a long standing Tenant and has resided in the rental unit since September 2000. The Landlord was also agreeable to having the Tenant continuing to live in the rental unit if he stopped smoking in the rental unit. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would not be unfair

to grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.

It is ordered that:

1. The tenancy between the Landlord and the Tenant continues if the Tenant meets the conditions set out below.
2. The Tenant shall not smoke in the rental unit for the duration of the tenancy.
3. If the Tenant fails to comply with the conditions set out in paragraph 2 of this order, the Landlord may apply under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') for an order terminating the tenancy and evicting the Tenant. The Landlord must make the application within 30 days of a breach of a condition. This application is made to the LTB without notice to the Tenant.
4. The Tenant shall pay to 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 March 31, 2026, the Tenant will start to owe interest. This will be simple interest calculated from April 1, 2026 at 4.00% annually on the balance outstanding.

March 4, 2026
Date Issued

Vishal Nanda
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.