



Order under Section 21.2 of the Statutory Powers Procedure Act and the Residential Tenancies Act, 2006

File Number: LTB-L-047535-25-RV

In the matter of: 1109, 166 CARLTON ST
TORONTO ON M5A2K5

Between: Allan Plaza Apartments Landlord

And

Shawn Roy Tenant

Review Order

Allan Plaza Apartments (the 'Landlord') applied for an order to terminate the tenancy and evict Shawn Roy (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 resolved by order LTB-L-047535-25 issued on October 3, 2025.

On October 30, 2025, the Tenant requested a review of the order and that the order be stayed until the request to review the order is resolved.

On October 31, 2025 interim order LTB-L-047535-25-RV-IN was issued, staying the order issued on October 3, 2025.

On January 7, 2026, interim order LTB-L-047535-25-RV(-IN2) was issued, granting the request and directing the application be reheard.

This application was reheard by videoconference on March 2, 2026.

The Landlord's Legal Representative, E. Steiman, the Building Superintendent, L. Downey, the Tenant's Legal Representative, S. Mason, 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.
3. On May 12, 2025, the Landlord gave the Tenant a first, voidable N5 Notice of Termination (N5 Notice). 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 (the 'Act').
4. On June 5, 2025, the Landlord gave the Tenant a second N5 Notice containing the following allegations:
 - On or about June 2, 2025, at approximately 8:04 a.m., the Landlord provided you with a notice to enter to install the pigeon netting on your balcony on June 4, 2025. At approximately 3:42 p.m., you responded to the superintendent advising that you will be declining the pigeon netting.
 - You and or your occupant(s) and or guest(s) continued behavior of refusing the Landlord and contractors entry into the unit to carry out necessary upgrades and repairs in your unit and to your balcony substantially interferes with the Landlord's lawful rights, privileges, interests, and management of these premises. As this is your 2nd N5 notice within the last six months, you are hereby notified that the landlord is commencing eviction proceedings.
Emphasis Added

5. Subsection 64(1) of the Act provides that:

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

6. The Building Superintendent testified that the completion of the balcony restoration at the complex was last summer and that Management/Head Office has since decided to install pigeon netting on every balcony. She also testified that prior to the restoration some balconies had similar netting. She further testified about the building having a pigeon problem in the past tense.
7. Under cross-examination, she confirmed that there is currently no pigeons on the Tenant's balcony, although other units on the eleventh floor had issues with pigeons (past tense).
8. The Tenant testified that he has resided in this unit since 1998 and in the building for over 36 years. He also testified that there was never any netting on his balcony in the past and that he has never had an issue with pigeons. He further identified himself as a person with a disability and that having netting around his balcony would aggravate his conditions. In support of his assertion, the Tenant provided a copy of a medical note from his physician dated September 10, 2025, into evidence (DOC-6825920pg9). The medical note provides at paragraph 1 and 4 the following:

“He is living with [sic] multiple medical conditions, two of which are relevant to the matter at hand.”

It is my medical opinion that Mr. Roy would not be able to live with the nettings in closing affect.”

9. The Tenant testified that his ability to go out on his balcony provides him a sense of peace and he believes that a netting around his balcony would both physically and mentally impact his health conditions. He testified that some of his symptoms are anxiety, heart palpitations, tightness in his chest, breathing issues, and vision (blurring/unfocussed) issues.
10. There was no dispute that the Tenant’s medical note was provided to the Landlord in response to this proceeding, however neither the Building Superintendent nor the Property Manager have reached out the Tenant to discuss his disability, and/or any potential alternatives to the pigeon netting.
11. Under cross-examination, the Tenant confirmed that he has visited other units with the pigeon netting installed which is how he knows there will be an impact on him if one were to be installed on his balcony.
12. The evidence before me was insufficient to find that the installation of the pigeon netting on the Tenant’s balcony is a necessary upgrade or repair as asserted by the Landlord in this application. I was satisfied that there is currently no pigeon issues on the Tenant’s balcony. Additionally, the Landlord did not provide any expert evidence with respect to the necessity and/or the effectiveness of this netting in the prevention of pigeons on the balconies. Further, the Landlord did not provide any evidence as to the netting’s appearance or installation other than to say it goes on the exterior of the building.
13. The Building Superintendent testified that the decision to install the netting was made by Head Office, and that they want netting installed on every balcony. She did testify in regard to a prior issue she had with pigeons before becoming the Superintendent when she resided on the second floor and that the alternatives, such as owls or fishing lines, did not work. She also testified, to her knowledge, that pigeon netting is the most effective prevention. However, there is no dispute that she is not an expert in pest control and since she has been the Superintendent for twelve years, her own experience with addressing pigeons was a very long time ago.
14. For the above reasons, I was not satisfied that the Tenant’s conduct substantially interferes with a lawful right, privilege or interest of the Landlord. Consequently, the Landlord’s application is dismissed.
15. In any event, I was also satisfied that the Landlord has failed to engage the Tenant in discussions related to his disability and explore options of accommodation regarding the Landlord’s decision to install pigeon netting. The Tenant testified that he has researched other means of preventing pigeons on balconies and has purchased a device called “Bird-X Balcony Guard,” which emits ultrasonic sound waves. Since there is currently no pigeon issue, the Tenant has only tried out this device to see if it had any impact on his medical conditions or use of the balcony which it did not.

16. The Landlord is obligated to accommodate the Tenant, a person with a disability, to the point of undue hardship. Without any engagement with the Tenant in discussing an accommodation, the Landlord cannot effectively assert that they met this obligation. So even if the Landlord met their burden in this application, it would most likely be dismissed as even a conditional order as requested by the Landlord could not be issued without the Landlord's duty to accommodate being met in this circumstance.

It is ordered that:

1. The application is dismissed.

March 11, 2026

Date Issued

Lisa Del Vecchio

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.