



AMENDED ORDER
Order under Section 69
Residential Tenancies Act, 2006
And section 21.1 of the Statutory Powers Procedure Act

Citation: Randlesome v Byers, 2026 ONLTB 13574

Date: 2026-02-12

File Number: LTB-L-000700-26-AM

In the matter of: Unit A, 15 O'BRIEN ST
Orillia ON L3V5S1

Between: Paul Randlesome Landlord

And

Donna Byers Tenant

This amended order is issued to correct a clerical error in the original order. The correction has been bolded and underlined for ease of reference.

Paul Randlesome (the 'Landlord') applied for an order to terminate the tenancy and evict Donna Byers (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 3, 2026.

Only the Landlord and the Landlord's legal representative Evan Hollis attended the hearing.

As of 1:51 p.m., the Tenant (DB) was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

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. Therefore,

the tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before February 23, 2026.

2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On December 2, 2025, the Landlord gave the Tenant an N5 notice of termination deemed served on December 7, 2025. The notice of termination contains the following allegations:

November 19, 2025 – 6:50 p.m.

- Upstairs tenant reports cigarette smoke circulating in his unit when the furnace turns on, originating from Tenant's lower unit.

November 21, 2025 – 12:42 p.m.

- Upstairs tenant reports strong cigarette smell detected in lower hallway near staircase, that the smell was coming from Tenant's unit.

November 25, 2025 – 9:03 a.m.

- Upstairs tenant wakes to strong cigarette odour in his kitchen and lower hallway, entering through floor registers and under the kitchen sink.

November 25, 2025 – 5:33 p.m.

- Upstairs tenant reported the continued smell of smoke entering upstairs unit from the Tenant's unit.

November 28, 2025 – 5:54 p.m.

- Upstairs tenant reported overwhelming smell of smoke entering into the upstairs unit from the Tenant's unit, specifically that:
 - Odour was spreading through vents, registers, and hallways.
 - Tenant was forced to open windows in cold weather.
 - Smoke odour is affecting multiple floors.
 - He was forced to buy air purifiers and seals vents.
 - His sleep has been disrupted and states the situation may force him to move out.

November 29, 2025 – 8:21 a.m.

- Upstairs tenant reported waking up to strong smell of cigarettes, tenant states DB smoked “throughout the night.”

November 30, 2025 – 9:05 a.m.

- Strong smoke smell detected again in bedroom, living room, and hallway; upstairs tenant expresses frustration over the situation as created by DB.

November 30, 2025 – 1:21 p.m.

- Tenant reported that he returns home to an overwhelming wall of smoke odor when opening the door.
 - Smell recirculates every time the furnace activates. And that his apartment “always smells like cigarettes” now - he can no longer enjoy his home.
4. The Tenant did not stop the conduct or activity within seven days after receiving the N5 notice of termination.
 5. The Landlord submitted that he received complaints of smoke odours as emanating from the Tenant’s (DB’s) unit from the upstairs tenant again on December 9, 13, and 15, 2025. Therefore, the Tenant did not void the N5 notice of termination in accordance with s.64(3) of the *Residential Tenancies Act, 2006* (Act).
 6. That on January 24, 2026 he was doing a furnace filter replacement at the rental unit, and saw cigarettes and ashtray inside (DB’S) rental unit and could smell the residual odours of cigarette smoking.
 7. The Landlord testified that the Tenant’s rental agreement contains a clause prohibiting smoking in the rental unit or in any other part of the residential complex. A copy of the Standard Form of Lease (DOC-7292821) was submitted into the Board’s record.
 8. Based on the uncontested evidence, I am satisfied on a balance of probabilities that the Tenant, an occupant of the Tenant’s rental unit, or a person permitted in the residential complex by the Tenant smoked cigarettes in the rental unit and that this activity is contrary to the terms of the lease agreement. This conduct has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant.

Compensation & Deposit

9. The Tenant was required to pay the Landlord \$1,565.02 in daily compensation for use and occupation of the rental unit for the period from January 1, 2026 to February 3, 2026, less all amounts paid.
10. Based on the monthly rent, the daily compensation is \$46.03. This amount is calculated as follows: \$1,400.00 x 12, divided by 365 days.

11. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
12. The Landlord collected a rent deposit of \$1,400.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$17.56 is owing to the Tenant for the period from July 1, 2025 to February 3, 2026.
13. The Landlord requests a termination of tenancy of (DB). As the Tenant has shown a disregard for the N5 notice and indoor smoking activity within the rental unit has continued, the conduct is continuing to cause substantial interference with another tenant's lawful right to reasonable enjoyment of their home. Additionally, the conduct has put the Landlord at risk of the upstairs tenant moving out and any additional claims that could result if the Landlord did not act upon the outlined complaints.

Relief from eviction

14. 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. The Tenant failed to attend the hearing to provide evidence of their circumstances and the Landlord's Representative submitted that they are unaware of any circumstances that would cause me to delay or deny an eviction.
15. This order contains all of the reasons for the decision within it. No further reasons shall be issued.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before February 23, 2026.
2. If the unit is not vacated on or before February 23, 2026, then starting February 24, 2026, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord on or after February 24, 2026.
4. The Tenant shall pay to the Landlord \$1,565.02, which represents compensation for the use of the unit from January 1, 2026 to February 3, 2026, less all amounts paid.
5. The Tenant shall also pay the Landlord compensation of \$46.03 per day for the use of the unit starting February 4, 2026 until the date the Tenant moves out of the unit.
6. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
7. If the Tenant does not pay the Landlord the full amount owing on or before February 23, 2026, the Tenant will start to owe interest. This will be simple interest calculated from February 24, 2026 at 4.00% annually on the balance outstanding.

February 12, 2026
Date Issued

March 9, 2026
Date Amended

Alicia Johnson
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.

In accordance with section 81 of the Act, the part of this order relating to the eviction of the Tenant expires on August 24, 2026 if the order has not been filed on or before this date with the Court Enforcement Office (Sheriff) that has territorial jurisdiction where the rental unit is located.