



Order under Section 69 Residential Tenancies Act, 2006

Citation: Playfair Residences v Wilhelm, 2026 ONLTB 22409

Date: 2026-03-27

File Number: LTB-L-004229-26

In the matter of: 232, 1695 PLAYFAIR DR
OTTAWA ON K1H8J6

Between: Playfair Residences Landlord

And

James Wilhelm Tenant

Playfair Residences (the 'Landlord') applied for an order to terminate the tenancy and evict James Wilhelm (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 March 11, 2026.

Only the Landlord's Agent, Charlie Bobrowsky attended the hearing.

As of 9:46 a.m. the Tenant 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 not proven on a balance of probabilities the grounds for termination of the tenancy and/or the claim for compensation in the application. Therefore, the application is dismissed.
2. The Tenant was in possession of the rental unit on the date the application was filed.

N5 Notice of Termination

3. On December 2, 2025, the Landlord gave the Tenant a first, voidable N5 notice of termination, deemed served on December 2, 2025. The Notice alleges on October 15, 2025, at 1:11 p.m., pest control technicians attended the Tenant's unit to provide pest control services in the unit. The Tenant was not at all prepared and as such the treatment could not be provided. The termination date listed on the N5 Notice was December 26, 2025. The Tenant was notified on the N5 Notice he had seven days to stop the activities or correct the behavior to avoid the eviction. The seven-day voiding period for this Notice is from December 2 to December 8, 2025.
4. On January 14, 2026, the Landlord gave the Tenant a second N5 notice of termination deemed served on January 14, 2025. The termination date on the second N5 Notice was January 30, 2026. The notice of termination contains the following allegations:
 - On December 3, 2025, at 10:54 a.m., pest control technicians attended the Tenant's unit to provide pest control services in the unit. The Tenant was not at all prepared and as such the treatment could not be provided.
 - On January 14, 2026, at 11:09 a.m., pest control technicians attended the Tenant's unit to provide pest control services in the unit. The Tenant was not at all prepared and as such the treatment could not be provided. The Landlord testified there were no further attempts to enter the Tenant's rental unit, other than those listed on the second N5 Notices. The Landlord further testified they are not interested in ending the tenancy and only issued the N5 Notices to obtain compliance so that the Tenant's unit can be treated for post control.
5. The Landlord testified the Tenant had been properly served with a notice of entry for pest control treatment and provided instructions for preparation.

Legislation:

6. Section 64 of the Residential Tenancies Act, 2006 ("the Act") states:
 - (1) 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 the lawful right, privilege or interest of the landlord or another tenant".
 - (2) A notice of termination under subsection (1) shall,
 - (a) provide a termination date not earlier than the 20th day after the notice is given;
 - (b) set out the grounds for termination; and
 - (c) require the tenant, within seven days, to stop the conduct or activity or correct the omission set out in the notice.

- (3) The notice of termination under subsection (1) is void if the tenant, within seven days after receiving the notice, stops the conduct or activity or corrects the omission.

7. A second N5 Notice of termination was given to the Tenant because of continued contravention. Section 68 (1) of the Act states:

A landlord may give a tenant notice of termination of the tenancy if,

(a) a notice of termination was given to the tenant under section 62, 64 or 67; and

(b) more than seven days but less than six months after the notice mentioned in clause (a) was given to the tenant, an activity takes place, conduct occurs or a situation arises that constitutes grounds for a notice of termination under section 60, 61, 62, 64 or 67, other than an activity, conduct or a situation that is described in subsection 61 (1) and that involves an illegal act, trade, business or occupation described in clause 61 (2) (a). 2006, c. 17, s. 68 (1); 2017, c. 13, s. 12.

(2) The notice under this section shall set out the date it is to be effective and that date shall not be earlier than the 14th day after the notice is given. 2006, c. 17, s. 68 (2).

Analysis:

8. The Tenant was given a first Notice of Termination under section 64 of the Act. Within the seven-day voiding period, the Landlord scheduled treatment and entered on December 3, 2025, but the Tenant did not prepare the rental unit, therefore the Landlord was not able to treat the unit. There were no further attempts to enter the rental unit during this seven-day voiding period. The Tenant did not correct the behaviour and did not void the first N5 Notice. The Landlord elected not to file an application under section 64 (1) of the Act.
9. The Landlord elected to serve and file an application based on the second N5 Notice of Termination under section 68(1) of the Act for the same conduct. The situation and event that led to the second N5 Notice that took place on December 3, 2025, cannot be the basis for eviction under section 68(1) of the Act because it was less than seven days after the first N5 Notice under section 64(1) was given. The only event that Board may consider on the second Notice of Termination is the incident on January 14, 2026. The Landlord served a notice to enter to treat the unit, but the technician's report indicates the unit was not prepared. The photographs show excessive property and it's rated 7-9 on clutter scale on the pest control report. The state of bedroom according to the technician's notes indicates state of the unit hasn't changed from October 14, 2025, and January 14, 2026.
10. We find based on the technician's report of January 14, 2026; the Tenant did not prepare the rental unit for treatment. The report dated January 14, 2026, states, "poor housekeeping and excessive clutter. Not ready for treatment unable to inspect further see pics [attached]". The two photographs show one bedroom and a second room with excessive property. We find the Tenant having not prepared the rental unit for treatment substantially interferes with the Landlord's lawful right, privilege or interest.

Section 83:

11. We 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 pursuant to subsection 83(1) of the Act.

12. The Landlord's Agent stated the Landlord was unaware of any circumstances that would have prevented or made the Tenant incapable of adequately preparing the unit for treatment, but we disagree.
13. There are eight pest control reports that the Landlord provided as evidence and some of those reports contains information that suggests the Landlord ought to have been aware that the Tenant required accommodation and was disadvantaged by physical disabilities. For example, the December 3, 2025, pest control report states, "passage blocked by a walker at front door no significant effort noted to prepare the unit and looks the same as last visit [October 14, 2025]". Given the presence of an assistive device at the front door, on a balance of probabilities, the Tenant has mobility restrictions; The technician's report dated March 4, 2026, also indicates the Tenant reported having COPD, which is a chronic obstructive pulmonary disease which typically affects breathing which limits endurance. Both breathing and mobility restriction are impairments that a reasonable person would infer would restrict the Tenant's ability to prepare the unit for treatment.
14. The Tenant is disadvantaged by their disability and thus the Landlord has a duty to accommodate to the point of undue hardship. Given the Tenant's reported physical challenges noted in the pest control reports, we find this triggers the Landlord's duty to accommodate under the *Ontario Human Rights Code* (the "Code"). Section 10 (1) of the Code defines a "disability" as:
 - (a) any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device,
15. The Landlord presented no evidence to suggest there were any meaningful attempts to accommodate the Tenant's physical disabilities. They instead denied knowing anything about the Tenant's circumstances which is in our view is unreasonable. The Landlord gave the Tenant one day to prepare the unit for treatment when the first N5 Notice was issued on December 2, 2025. This is not consistent with accommodation that would be expected by the Landlord to be provided the Tenant. Consideration was also given to the pest control report dated January 28, 2026, that states, "the bedroom cluttered 7-9 borderline hoarding in unit... unit as is not treatable today" and the comments on the December 3, 2025, report that the unit was in the same condition as in October 14, 2025. Given there's a high level of clutter a reasonable person ought to have known one day to prepare the unit would not be reasonable.
16. The level of clutter would have been known by the Landlord on October 14, 2025, and in our view it's unreasonable for the Landlord to claim they have no knowledge of circumstances that would have rendered the Tenant incapable of complying given they likely were aware the Tenant was using an assistive device. The duty to accommodate is triggered not only by explicit disclosure, but also by what the Landlord knew or ought to have reasonably known.

17. On a balance of probabilities, due to the Landlords' failure to accommodate, we find that it is appropriate to deny eviction under Section 83 of the *Residential Tenancies Act, 2006* (the "Act"). The Landlord must first explore ways to accommodate the Tenants' physical disabilities to the point of undue hardship, as required by the Code. Until the Landlord have discharged their duty to accommodate to the point of undue hardship, an eviction application based on these grounds are premature.

It is ordered that:

1. The application is dismissed.

March 27, 2026
Date Issued

David McFadden
Member, Landlord and Tenant Board

March 27, 2026
Date Issued

Sandra Macchione
Vice-Chair, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.