



Order under Section 69 Residential Tenancies Act, 2006

File Number: LTB-L-104551-25

In the matter of: 610, 125 INDIAN RD
KITCHENER ON N2B2S8

Between: The Effort Trust Company Landlord

And

Philip Schmaus Tenant
Melanie Bancroft

The Effort Trust Company (the 'Landlord') applied for an order to terminate the tenancy and evict Philip Schmaus and Melanie Bancroft (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

The Landlord also claimed compensation for each day the Tenants remained in the unit after the termination date.

This application was heard by videoconference on March 17, 2026 at 09:00 am.

The Landlord Representative Jennifer Smith, the Tenant Representative Judy Cayford and the Tenants 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. At the outset of the hearing the Tenant Representative submitted, as corroborated by the Tenant Philip Schmaus testimony, that the N5 Notice of termination (N5 Notice) was not served or received by the Tenants, nor was it served in accordance with previous legal correspondence.
3. Specifically, the Tenant Representative submitted that they previously emailed the Landlord's legal representation and property management, that all correspondence, including notices of termination were to be served through their office.

4. In response the Landlord Agent Brenda Gibson attested to serving the notice in accordance with the certificate of service, testifying to handing it to the Tenant Philip Schmaus. However, on my own questioning they admitted to not recalling all the details of the interaction.
5. The Landlord Representative then submitted they were not in receipt of any such instruction; however, they also submitted that they had only recently been retained.

Analysis

6. Based on the above submissions, and for the reasons that follow, I am not satisfied on the balance of probabilities, that the N5 Notice was properly served.
7. First, the Landlord Agent, by their own testimony could not recall the exact details of the interaction. Secondly, although the Tenant Representative could not produce the email directing all communication go through their office, both the Tenant and they, a licensee testified to having done so. Accordingly given their testimony and the fact that the Landlord Representative admitted to only recently been retained, I am satisfied that such direction was given and therefore rendering the serving of the N5 Notice directly on the Tenants, if it was in fact so, invalid. As such I must dismiss the Landlord's application.

It is ordered that:

1. The Landlord's application is dismissed.

March 30, 2026
Date Issued

Kelly Delaney
Member, 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.