



**Order under Section 69
Residential Tenancies Act, 2006**

File Number: LTB-L-105316-25

In the matter of: 810 INDIAN RD
TORONTO ON M6P2E5

Between: Myroslava Drobot Landlord

And

Viktor Liakhovskyi Tenant

Myroslava Drobot (the 'Landlord') applied for an order to terminate the tenancy and evict Viktor Liakhovskyi (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

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

The Landlord 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.

N5 Notice of Termination

Substantial interference

3. On November 4, 2025, the Landlord gave the Tenant an N5 notice of termination deemed served on the same date. The notice of termination contains the following allegations:
 - a. On November 3, 2025 the Tenant in the second floor apartment complained several times about smoke emanating from the rental unit.

4. The N5 Notice gave a termination date of November 30, 2025 which could be voided by ceasing the alleged activity.
5. It was the Landlord Witness Anastasiia Nesvit testimony that they lived in the second-floor unit directly above that of the Tenant, and that the Tenant did not cease the activity. They also testified that although they did not see the Tenant smoke inside the rental unit, there was only an improvement once the Landlord had filed their application, but not before purchasing an additional air filter at their own expense.
6. They also testified they were not of the habit of leaving their window open during the winter months and that they were sensitive to smoke and were still affected by the alleged smoking.
7. The Landlord corroborated their witness's testimony regarding the improvement claiming to have purchased an air quality sensor and since filing the application had noticed improved readings. They also testified to bringing forth the application pursuant to their obligations under the *Residential Tenancies Act, 2006* (the "Act").
8. In response the Tenant denied the allegations, testifying they only smoke outside of the unit, in the backyard approximately three to five feet from the building. They supported their testimony with letters of attestation from other tenants.

Analysis

9. The onus to prove the allegations in an application lies with the applicant, in this case, the Landlord. Having considered all the above circumstance and for the reasons that follow, I am not satisfied on the balance of probabilities they have proven their case.
10. For one there is no direct evidence of the Tenant smoking inside the unit, only the supposition of one other tenant. For another, the Tenant has denied the allegation and provided several letters attesting to them not smoking in the unit from other tenants. Although those letters amount to hearsay, I am accepting of them. Accordingly, in the absence of additional complaints from other parties or evidence such as pictures or videos of the Tenant's alleged smoking inside the unit. For these reasons I must dismiss the Landlord's application.

It is ordered that:

1. The Landlord's application is dismissed.

March 25, 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.