



Order under Section 69 / 89 Residential Tenancies Act, 2006

Citation: Daglian v Taylor, 2026 ONLTB 24761

Date: 2026-04-07

File Number: LTB-L-078312-25

In the matter of: 209, 2985 MCKAY AVE
WINDSOR ON N9E2R1

Between: Alice Daglian Landlord

And

Tricia Taylor Tenant

Alice Daglian (the 'Landlord') applied for an order to terminate the tenancy and evict Tricia Taylor (the 'Tenant') because:

- the Tenant, another occupant of the rental unit or a person the Tenant permitted in the residential complex has seriously impaired the safety of any person and the act or omission occurred in the residential complex;
- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has wilfully caused undue damage to the premises.

This application was heard by videoconference on December 8, 2025, and February 26, 2026.

The Landlord and the Tenant attended the hearing. The Landlord was represented by Mason Herberholz. The Tenant was represented by Chris Hall.

Post hearing submissions were filed by the Landlord on March 2, and March 27, 2026. Post hearing submissions were filed by the Tenant on March 18, 2026.

Determinations:

1. As explained below, the Landlord has not proven on a balance of probabilities the grounds for termination of the tenancy or claims for compensation in the application. Therefore, the application is dismissed.

N7 Notice of Termination

2. On March 27, 2025, at approximately 1:00 a.m., a fire occurred in the Tenant's rental unit.

3. On September 12, 2025, the Landlord served the Tenant with a Notice to End Tenancy Early (N7). The notice does not allege that the Tenant caused the fire. Rather, the Landlord alleges that the Tenant's response to the fire seriously impaired the safety of others in the residential complex.
4. The Landlord's position is that the seriousness of the damage reflects the seriousness of the Tenant's conduct. In particular, the Landlord alleges that the Tenant failed to permit others to assist in extinguishing the fire and that this allowed the fire to continue or worsen.
5. The Tenant denies these allegations and submits that she acted reasonably in the circumstances by calling emergency services and alerting others. She submits that the Landlord has failed to meet the threshold under section 66 of the *Residential Tenancies Act, 2006* (the 'Act') for eviction.

Landlord's testimony

6. The Landlord testified that she became aware of the fire after being alerted by noise in the building. She observed flames coming from the Tenant's unit in the bathroom area.
7. The Landlord did not witness the initial stages of the fire or the Tenant's response. Her evidence regarding the Tenant's conduct is based on surveillance footage and the testimony of other tenants.

RP

8. Roxanne Patterson, who resides in a neighbouring unit, testified that she was awakened by the Tenant yelling about a fire and that no building-wide alarm sounded.
9. She attended at the Tenant's unit and observed a fire in the bathroom ceiling fan area. She testified that her guest offered the Tenant a fire extinguisher and that the Tenant responded that she had already called the fire department.

MM

10. Maurice Mancini testified that he was awakened by voices suggesting that a fire extinguisher could be used and that the Tenant appeared to be blocking access to the unit. He believed the Tenant was preventing others from assisting the fire scene.

Tenant's testimony

11. The Tenant testified that she was asleep when she was awakened by the smell of smoke and observed flames coming from the bathroom fan.
12. She testified that she immediately called 911 and alerted other tenants by telling them there was a fire and that they should evacuate.
13. The Tenant acknowledged that she did not use a fire extinguisher or accept assistance from others. She explained that she had no training in fire suppression, was frightened, and believed it was safest to wait for trained firefighters.

14. She denied intending to prevent anyone from assisting and stated that her focus was on safety and awaiting emergency responders.

Devon Fabbitt

15. The Tenant called firefighter Devin Fabbitt, who testified as a first responder.
16. He testified that the fire appeared to originate in the bathroom fan or ceiling area and that there was no evidence of intentional fire-setting.
17. He also testified that emergency situations are highly stressful and that untrained individuals may not be able to safely or effectively use a fire extinguisher.
18. With respect to the fire, he noted there was an incomplete fire stop in the ceiling that allowed smoke and heat to travel between units. He also noted there was no building-wide alarm activation at the time of the fire and that Occupants became aware of the fire through noise rather than an alarm system.

Analysis

19. Pursuant to section 66 of the Act, a landlord may give a tenant a notice of termination if an act or omission of the tenant seriously impairs the safety of another person, provided that the act or omission complained of occurs in the residential complex.
20. In *2276761 Ontario Inc. v. Overall* the Division Court found that the case law has reserved resort to section 66 of the Act and the N7 process to cases involving “weighty, grave or momentous conduct” involving actual impairment of safety or a real risk of impairment of safety.
21. In order to be successful on this ground, the Landlord must establish that the effect of the Tenant’s actions threatens the wellbeing or physical integrity of another person. In other words, the question to be answered is whether the tenant’s actions or omission put someone at serious risk of harm.
22. In this case, I do not find the Tenant’s actions and inactions put anybody in unnecessary harm. The Tenant called the 911 immediately and according to DF the fire department arrived in 5 minutes and was able to put out the fire without incident. In my view it would be inherently risky for the Tenant or other occupants of the building to attempt to put out a fire when they are not trained to do so.
23. The surveillance footage, while admissible, is of limited assistance to the Landlord. The audio is unclear, involves multiple overlapping voices, and does not reliably establish that the Tenant refused meaningful assistance.
24. I also find the evidence of the Landlord’s witnesses to be of little assistance. RP’s testimony does not clearly support the Landlord’s allegation that the Tenant refused meaningful assistance. While she confirms that others were present, her testimony does not establish that effective assistance was offered and refused. Her testimony is equally consistent with the Tenant indicating that emergency services had been contacted and that she intended to await their arrival.

25. I also find MM's evidence to be unreliable. His testimony was based largely on what he heard rather than direct observation, was internally inconsistent, and reflected generalized concerns rather than specific, reliable observations of the Tenant's conduct.
26. I prefer the evidence of DF, who testified as an independent and objective witness with no interest in the outcome.
27. His evidence also supports the that the Tenant acted promptly in seeking emergency assistance. There is no evidence of any prolonged delay attributable to the Tenant. Rather, the evidence indicates that professional responders arrived within a short period of time. This undermines the Landlord's suggestion that the Tenant's actions allowed the fire to continue or materially worsened the outcome.
28. In these circumstances, the Tenant's decision to rely on trained emergency responders rather than attempt to extinguish the fire herself or permit untrained individuals to intervene was reasonable.
29. Moreover, it is unclear why other occupants of the residential complex remained in the vicinity of an active fire rather than evacuating. The evidence suggests that this may be attributable, at least in part, to the absence of a functioning building-wide alarm system to alert occupants to evacuate.
30. In my view, to the extent there was any risk of a serious impairment of safety, the absence of a functioning building-wide alarm system may have contributed to that risk.
31. Moreover, it is not clear as to why other occupants of residential complex continued to mill around the scene of an active fire instead of evacuating. Perhaps this has to do with the fact that there was not an adequate alarm system in the residential complex alerting people to evacuate.
32. On a balance of probabilities, I am not satisfied that the Tenant, through her acts or omissions, caused or permitted a serious impairment of safety.
33. While the damage to the rental unit and the residential complex was significant, I am not satisfied that the Tenant, by wilful or negligent conduct, caused or permitted that damage.
34. The cause of the fire remains unknown. I find the evidence does not establish a causal connection between the Tenant's conduct and the resulting damage. In my view, the damage was the result of the fire itself and the necessary efforts to extinguish it.
35. Moreover, I accept DF's evidence that the spread of the fire between units was likely attributable to an incomplete fire stop, rather than to any conduct of the Tenant.
36. Based on the evidence before me, I am not satisfied that the Tenant wilfully or negligently caused undue damage to the rental unit. Accordingly, the Landlord's application is dismissed.

It is ordered that:

1. The Landlord's application is dismissed.

April 7, 2026
Date Issued

Bryan Delorenzi
Member, Landlord and Tenant Board

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