



Order under Section 78(6) Residential Tenancies Act, 2006

File Number: LTB-L-019465-26

In the matter of: 102, 485 FIRST AVE W
NORTH BAY ON P1B3C5

Between: First Ave (No. 6) Inc. Landlord

And

David Cassel Tenant

On March 3, 2026, First Ave (No. 6) Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict David Cassel (the 'Tenant') because the Tenant failed to meet a condition specified in the order issued by the LTB on with respect to application LTB-L-041911-25 on November 24, 2025.

A hearing was held by videoconference on April 9, 2026 to consider this application.

Only the Landlord's agent, Paula Peroni, and the Landlord's witness, Derek Parks (DP), attended the hearing.

As of **9:44am**, 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. The order provides that the Landlord can apply to the LTB under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') without notice to the Tenant to terminate the tenancy and evict the Tenant if the Tenant does not meet certain conditions in the order.

The breach

2. I find that the Tenant did not meet the following condition specified in the order:
 1. The Tenant did not refrain from smoking cigarettes or any other substance within the rental unit or the residential complex.
3. On March 3, 2026 I accept that the Landlord's witness, DP, required access to the rental unit in order to investigate the source of a water leak from the upper unit. Upon entering

the Tenant's unit, DP noticed scented candles burning in the living room, but there was still the smell of burned cigarettes in the unit and there was evidence of ashes discovered on the living room coffee table where the Tenant was present. There was also a set of tweezers on the coffee table that had charred marks suggesting that they were being used to hold something burning which is indicative of them being used to hold roaches for cannabis use. Photographs of the ashtray, tweezers and candles were provided at the hearing.

4. While the Tenant was not witnessed actually smoking inside the rental unit during this attendance, on a balance of probabilities I find that the Tenant had been recently smoking inside the rental unit which is a breach of the order issued on November 24, 2025.
5. That order required that the Tenant refrain from smoking inside the rental unit between November 25, 2025 and November 24, 2026. I would find it unlikely that the dirty ashtray and tweezers would still be on an otherwise tidy coffee table if the Tenant was not smoking inside the rental unit as ordered three months prior.
6. Additionally, DP testified that he has suspected ongoing smoking inside the rental unit on the basis that when he has occasionally passed by the unit, even as recently as just prior to the hearing, there was a strong presence of cigarette smoke smell emanating into the hallway from the Tenants unit.
7. It is worth noting that the Tenant did not attend the original hearing that took place on September 16, 2025 and the Member granted discretionary relief from eviction by imposing conditions on the Tenant to preserve the tenancy despite the Landlords request for termination of the tenancy based on the issue with smoking and the impact on other tenants.
8. The Landlord further submits that one Tenant in the building has already vacated due to the smell of smoke coming from the Tenants unit and that there is another Tenant that lives close to the unit that has respiratory issues relating to allergies from second hand smoke and they have given notice to vacate also. The Landlord has provided the residents including the Tenant with a designated area outdoors on the property for use, however, they seldom, if ever, see the Tenant using the designated area.
9. The application was filed within 30 days of the breach.
10. There is no last month's rent deposit. The Landlord did not request the \$186.00 application filing fee and it was already included in the previous order.
11. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act, and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

It is ordered that:

1. Order LTB-L-041911-25 is cancelled.

2. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before May 3, 2026.
3. If the unit is not vacated on or before May 3, 2026, then starting May 4, 2026, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
4. 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 May 4, 2026.

April 22, 2026
Date Issued

Terri van Huisstede
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 November 4, 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.