



Order under Section 31 & 69 Residential Tenancies Act, 2006

Citation: Brown v 1652557 ONT Inc, 2026 ONLTB 30599

Date: 2026-04-17

File Number: LTB-T-074939-24

LTB-L-042491-25

In the matter of: 11, 27 Murney Street
Belleville ON K8P3N5

Between: Daniel Brown Tenant

And

1652557 ONT Inc
Sylvia Paz Provizor Landlord

Daniel Brown (the 'Tenant') applied for an order determining that 1652557 ONT Inc and Sylvia Paz Provizor (the 'Landlord') substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenant or by a member of their household. (*T2 Application*)

The Landlord applied for an order to terminate the tenancy and evict the Tenant because the Tenant did not pay the rent that the Tenant owes. (*L1 Application*)

This application was heard by videoconference on April 9, 2026.

The Landlord, Sylvia Paz Provizor ("SP"), the Landlord's Legal Representative, Paula Stevens, the Landlord's witnesses, Corey Cole ("CC") and Cynthia Genereaux ("CG"), and the Tenant attended the hearing

Determinations:

1. At the onset of the hearing, I raised that there was an issue with the service of the N4 Notice. Specifically, the Certificate of Service indicated that the N4 Notice was served on May 24, 2025. However, the termination date in the N4 Notice was May 19, 2025.
2. The Landlord subsequently elected to withdraw the L1 application. The Tenant did not object. As such and in accordance with subsection 200(4) of the *Residential Tenancies Act, 2006* (the "Act"), I consent to the withdrawal of the application. The matter proceeded with the Tenant's section 82 issues and T2 application. The issue contained in both applications is the allegation of foul odor from a neighbouring unit.

3. At one point during the hearing, the Tenant requested an adjournment. Given that the Tenant rescinded his request and ultimately chose to proceed, I find it unnecessary to address the adjournment request in this Order.

Tenant's Evidence

4. The Tenant testified that a foul smell has been emanating from unit 4 since the tenants in that unit moved into the property in June 2022. The Tenant describes the smell as a dirty cat litter box and submits that the source of the odor is the cats residing in unit 4.
5. The Tenant testified that he informed the Landlord, SP, in person on June 3, 2022 and has complained regularly every other day since.
6. The Tenant testified that he had a petition signed by at least twelve other tenants and neighbours adjacent to the property to substantiate the odor.
7. The Tenant submitted into evidence messages to the Landlord complaining about the odor on January 25, 2024, April 19, 2024, April 22, 2024, June 8, 2024, August 21, 2024, October 20, 2024.
8. The Tenant testified that the Landlord informed him that the cats in unit 4 were fixed on September 26, 2024.
9. The Tenant testified that the Landlord acknowledged receiving the complaints but has done nothing to address the issue and that the odor persists as of the hearing date.

Landlord's Evidence

10. SP testified that an N5 Notice regarding the odor complaints was served to unit 4 on May 1, 2024 and that her Legal Representative inspected unit 4 on May 10, 2024 and advised her that there were no smell and no reason to follow up with another notice of termination or a L2 application.
11. SP testified that she inspected unit 4 on September 5, 2024 and observed two cats in the unit. SP testified that that there was no odor but to appease the Tenant, she paid for the cats to be fixed. A copy of an invoice dated September 26, 2024 from Belleville Animal Hospital was submitted into evidence.
12. SP testified that the Tenant used to clean the rental property weekly but since 2024, she hired CG to clean the property on a weekly basis.
13. SP testified that she has not received a complaint from any other tenants regarding an odor within the rental property.
14. SP testified that the balconies of the Tenant's unit and unit 4 are on the same wall and that the two units do not share HVAC ducts and vents.
15. SP testified that she goes to the rental property once or twice a week and hasn't smelled any foul odors.

16. CC appeared as the Landlord's first witness. CC resides in the rental property and testified that he has not detected any foul odors on the premises since he moved into the property on October 1, 2021. CC testified that his unit is separate from the other units but he regularly goes to the laundry room which is connected to the other units.
17. CC testified that he works for the Landlord and the Landlord employs him to clean a pub.
18. CG appeared as the Landlord's second witness. CG is the cleaner hired by the Landlord to clean the rental property every week.
19. CG testified that she has not detected any foul odors on the premises when visiting friends in the property and since becoming the cleaner in July 2025.

Analysis

20. On an application to the Board, the person who alleges a particular event occurred has the burden of proof to establish that it is more likely than not that their version of events is true.
21. In this case, the burden falls on the Tenant to establish that there is an offensive foul odor and the Landlord has failed to address the odor. Based on the evidence before the Board, I find the Tenant has failed to do so.
22. The Tenant did not provide any supporting documentary evidence to support the proposition that there a foul odor coming from the cats in unit 4 and that the smell was infiltrating the rental unit. The Tenant did not bring any witnesses to corroborate his testimony and there was no evidence before the Board that the Tenant contacted the health unit or the City for any safety concerns. The Tenant also did not submit any medical documentation to suggest that his health issues are related to prolonged exposure to unsafe or concerning odors. The Landlord and two witnesses gave clear and consistent evidence that they did not detect any foul odor on the premises.
23. All that was provided at the hearing were conflicting views from two parties on whether there is a smell, basically a "he said, she said" set of submissions. When the burden of proof rests on the Tenant and this kind of evidentiary "tie" occurs, it means that the Tenant has failed to meet the burden of proof. Absent something more, like a witness to provide direct testimony corroborating the Tenant's allegations or medical documentation linking health concerns to the presence of the smell, I am unable to determine if there was a foul odor in the rental unit coming from unit 4 and if there was, if the odor amounts to the level of substantial interference.
24. For the reasons above, I find that the Tenant did not establish, on a balance of probabilities, the allegations raised as section 82 issues and in the T2 application. As such, the application and section 82 claim must be dismissed.

It is ordered that:

1. The Landlord's L1 application is dismissed as withdrawn.
2. The Tenant's application and section 82 claim is dismissed.

April 17, 2026
Date Issued

Vicky Liu
Member, Landlord and Tenant Board

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