



Amended Order
Order under Section 69
Residential Tenancies Act, 2006
And Section 21.1 of the **Statutory Powers Procedure Act**

File Number: LTB-L-080670-25-AM

In the matter of: 801, 11 OVERLEA DR
KITCHENER ON N2M5C8

Between: 11 Overlea Drive (Kitchener) Limited c/o Landlord
Realstar Corp.

And

Desmond Fitzgerald Tenant

11 Overlea Drive (Kitchener) Limited c/o Realstar Corp. (the 'Landlord') applied for an order to terminate the tenancy and evict Desmond Fitzgerald (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;
- 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 Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on January 21, 2026.

Only the Landlord's Agent, Liam Boucher and the Landlord's Legal Representative, Martin Zarnett attended the hearing.

As of 10:14 a.m., 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.

This amended order is being issued to correct a clerical error in the order issued on May 1, 2026.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation in the application. Therefore, the tenancy is terminated. The Tenant shall pay daily compensation to the Landlord up to the date the rental unit is vacated.
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 August 21, 2025, the Landlord gave the Tenant an N5 notice of termination deemed served on August 26, 2025. The notice of termination alleges that the Tenant has failed to maintain the rental unit in a state of ordinary cleanliness and has failed to prepare the unit for pest control treatment of bedbugs and lice.
4. The Landlord's Agent, Liam Boucher ('LB') testified that on March 28, 2025, the Landlord entered the rental unit for an inspection pursuant to a lawful notice of entry and observed that the rental unit was not in a state of ordinary cleanliness and was infested with lice and bedbugs. The Landlord delivered a letter to the Tenant dated March 28, 2025 with an offer to assist the Tenant with cleaning the rental unit and to prepare the unit for pest control treatment.
5. LB testified that on April 1, 2025, the Landlord served a notice of entry for entry on April 15, 2025 in order to perform pest control treatment in the rental unit. LB testified that along with the notice of entry, a preparation sheet was provided to the Tenant with instructions for preparing the rental unit for treatment. On April 15, 2025, the Landlord entered the rental unit to treat the unit for bedbugs and lice and observed the unit was still in a poor state of cleanliness and was not prepared for treatment.
6. The Landlord gave further notices of entry with preparation sheets for entry on April 30, 2025, May 21, 2025, June 4, 2025, June 18, 2025 and August 6, 2025, for the purpose of treating the rental unit for bedbugs and lice in the rental unit and on each date, the Landlord observed the rental unit was in a poor state of cleanliness and unprepared for treatment.
7. LB testified that on September 1, 2025, the Landlord served the Tenant with a notice of entry for September 3, 2025 for an inspection and pest control treatment. LB testified that once again the unit was in a poor state of cleanliness and the Tenant had failed to prepare the rental unit for pest control treatment.
8. Based on the Landlord's September 3 inspection, I am satisfied that **the Tenant** has interfered with the reasonable enjoyment of other residents of the residential complex by **failing** to comply with requirements to prepare for pest control treatments and to maintain the rental unit in a state of ordinary cleanliness and that as a result, the Landlord has not been able to treat the unit for pests, namely lice and bedbugs. I am also satisfied that the Tenant's repeated failure to prepare the rental unit for treatment has substantially interfered with the Landlord's lawful rights, privileges and interests. the Tenant did not stop the conduct or activity or correct the omission within seven days after receiving the N5 notice of termination by cleaning the rental unit and preparing the rental unit for pest control treatments. Therefore, the Tenant did not void the N5 notice of termination in accordance with s.64(3) of the *Residential Tenancies Act, 2006* (Act).

N7 Notice of Termination – Serious Impairment of Safety

9. On August 21, 2025, the Landlord gave the Tenant an N7 notice of termination deemed served on August 26, 2025. The notice of termination contains the same allegations as the N5 notice of termination, specifically that the Tenant has failed to maintain the rental unit in a state of ordinary cleanliness and has failed to prepare the rental unit for pest control treatment for bedbugs and lice. The Landlord submits that this has seriously impaired the safety of other residents in the residential complex.
10. Section 66 of the *Residential Tenancies Act, 2006* (the 'Act') allows the Landlord to give notice of termination of the tenancy if the tenant, another occupant of the rental unit or a person permitted in the residential complex by the Tenant seriously impaired the safety of another resident and the act occurred in the residential complex.
11. In *2276761 Ontario Inc. v. Overall*, 2018 ONSC 3264, the Divisional Court reviewed prior LTB jurisprudence, at paragraph 12, that had held that the impairment of safety must be "weighty, grave or momentous conduct" involving the actual impairment of safety or a real risk of impairment. The Court further held that in dealing with pests, evidence must be led to determine that safety is impaired.
12. In this case, while the Landlord has established that the Tenant has failed to maintain the rental unit in a state of ordinary cleanliness and has failed to prepare the unit for pest control treatments on a number of occasions, I was not satisfied that the Landlord has met the threshold for demonstrating that the state of the unit has resulted in "serious" impairment of safety by the Tenant, another occupant of the rental unit or a person permitted into the residential complex by the Tenant. Therefore, the Landlord's request to terminate the tenancy for serious impairment of safety is denied.

Daily Compensation

13. The Tenant was required to pay the Landlord \$5,139.86 in daily compensation for use and occupation of the rental unit for the period from September 22, 2025 to January 21, 2026, less any amounts already paid.
14. Based on the monthly rent, the daily compensation is \$42.13. This amount is calculated as follows: \$1,281.34 x 12, divided by 365 days.
15. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
16. The Landlord collected a rent deposit of \$1,232.82 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$32.31 is owing to the Tenant for the period from January 1, 2025 to January 21, 2026.
17. The amount of the rent deposit and interest on the rent deposit is applied to the amount the Tenant is required to pay.
18. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

19. The Tenant was not present at the hearing to provide me with any of their circumstances that might warrant relief from eviction and as a result, I was not aware of any such circumstances.
20. LB testified that the Landlord entered the unit again for pest control treatment on September 19, 2025, October 15, 2025, November 19, 2025 and January 7, 2026 and during each visit, the unit was unprepared for treatment.
21. Based on the uncontested submissions of the Landlord, I find that it would be unfair to grant relief from eviction.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before May 12, 2026.
2. If the unit is not vacated on or before May 12, 2026, then starting May 13, 2026, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. 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 13, 2026.
4. The Tenant shall pay to the Landlord \$5,139.86, which represents compensation for the use of the unit from September 22, 2025 to January 21, 2026.
5. The Tenant shall also pay the Landlord compensation of \$42.13 per day for the use of the unit starting January 22, 2026 until the date the Tenant moves out of the unit.
6. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
7. The Landlord owes \$1,265.13 which is the amount of the rent deposit and interest on the rent deposit, and this is deducted from the amount owing by the Tenant.
8. The total amount the Tenant must pay the Landlord is \$4,060.73, less any amounts already paid.
9. If the Tenant does not pay the Landlord the full amount owing on or before May 12, 2026, the Tenant will start to owe interest. This will be simple interest calculated from May 13, 2026 at 4.00% annually on the balance outstanding.

May 1, 2026
Date Issued

Christopher Lin
Member, Landlord and Tenant Board

May 7, 2026
Date Amended

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 October 23, 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.