



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

Citation: Stubbs v Boot, 2026 ONLTB 42905

Date: 2026-06-01

File Number: LTB-L-010332-26-AM

In the matter of: 239 MANLY ST Unit 3
MIDLAND ON L4R3C4

Between: John Stubbs Landlord

And

Linda Boot Tenant

John Stubbs (the 'Landlord') applied for an order to terminate the tenancy and evict Linda Boot (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 May 27, 2026. The Landlord and the Tenant attended the hearing. The Tenant spoke to Tenant Duty Counsel prior to the start of this proceeding.

This amended order is issued to correct clerical errors in the amended order issued on June 8, 2026.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy in the application, however I find that it is appropriate in all of the circumstances to grant relief from eviction to the Tenant under s. 83(1) of the Residential Tenancies Act, 2006 (the 'Act'). Therefore, the tenancy between the Landlord and the Tenant will continue subject to the conditions outlined below
2. The Tenant was in possession of the rental unit on the date the application was filed.

3. The Landlord's L2 application is based on an N5 notice. The Landlord served the Tenant with this notice as follows:
 - On February 2, 2026, via personal service, a voidable N5 Notice of Termination ("N5 notice") to end the tenancy as the Tenant or someone visiting or living with the Tenant had substantially interfered with the reasonable enjoyment of the residential complex and/or with another lawful rights, privileges, or interests of the Landlord or another person. The N5 notice alleged that the Tenant was smoking in her rental unit and in common areas of the rental complex on various dates as outlined in the N5 notice.
4. Subsection 64(1) of the Act states:

A landlord may give a tenant notice of termination of the tenancy if the conduct of the tenant, another occupant of the rental unit or a person permitted in the residential complex by the tenant is such that it substantially interferes with the reasonable enjoyment of the residential complex for all usual purposes by the landlord or another tenant or substantially interferes with another lawful right, privilege or interest of the landlord or another tenant.
5. Based upon the contested evidence of the Landlord and the Tenant herself, I find on a balance of probabilities that the acts alleged in the N5 notice were committed by the Tenant, and/or by others the Tenant permitted in the residential complex. The Landlord's testimony and evidence was that the acts of smoking in the residential complex substantially interfered with the other tenants and the Landlord. I therefore find on a balance of probabilities that the acts substantially interfered with the Landlord and other tenant's reasonable enjoyment of the residential complex.
6. A notice under section 64 is an initial "voidable", meaning that the Tenant had seven days to cease the behaviour outlined in the notice, and therefore render the N5 notice ineffective to terminate the tenancy.
7. Based on the Tenant's own testimony before the Board, on a balance of probabilities, I find that the N5 notice was not voided. Hence, based on the oral evidence before the Board, on a balance of probabilities, I find that the Tenant's smoking in common areas of the residential complex and her rental unit as outlined in the Landlord's N5 notice, substantially interfered with the Landlord's or another tenant's reasonable enjoyment of the residential complex and another tenant's lawful rights, privileges or interests.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. The Landlord sought an eviction and the Tenant sought a conditional order, and having considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act, I find that it would not be unfair to grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act. The Tenant has

resided in the rental unit for 18 years, is a senior citizen with mobility issues and has been a smoker the majority of her adult life, and while she testified she wishes to quit, this is a stressful time in her life, and she will make her best efforts to abide by a conditional order not to smoke in her rental unit and common areas of the residential complex. The Tenant further noted in her testimony that the Landlord has owned the residential complex for 4 years and has only recently received complaints from other tenants, all of which to her knowledge are smokers, but one.

10. The Act is remedial legislation and the courts have determined that evicting a tenant is a remedy of last resort. In the cases of *Sutherland v. Lamontagne*, [2008] O.J. No. 5763 (Div. Ct.) and *Paderewski Society v. Ficyk*, [1998], the Divisional Court stated,

“To put somebody out of their home must, in my view, call for clear and compelling circumstances that it’s no longer possible for the arrangement to continue.”

11. This order, with specific conditions that are required for the Tenant to comply with to continue her tenancy.
12. The Tenant must choose between keeping her home by complying with the conditions of this order, or she could inevitably face eviction and have to relocate.
13. Although this order does not specifically address each piece of evidence individually or reference all of the testimony, I have considered all of the evidence presented at the hearing and all of the oral testimony when making my determinations.
14. This order contains all of the reasons for the decision within it and no further reasons will be issued.

It is ordered that:

1. The tenancy between the Landlord and the Tenant continues if the Tenant meets the condition set out below.
2. The Tenant shall not smoke tobacco cigarettes in her rental unit and in common areas of the residential complex for a period of 12 months, specifically from July 1, 2026, **to June 30, 2027.**
3. If the Tenant fails to comply with the conditions set out in paragraph 2 of this order, the Landlord may apply under section 78 of the *Residential Tenancies Act, 2006* (the ‘Act’) for an order terminating the tenancy and evicting the Tenant. The Landlord must make the application within 30 days of a breach of a condition. This application is made to the LTB without notice to the Tenant.
4. The Tenant shall pay to the Landlord \$186.00 for the cost of filing the application.
5. If the Tenant does not pay the Landlord the full amount owing on or before June 12, 2026, the Tenant will start to owe interest. This will be simple interest calculated from June 13, 2026, at 4.00% annually on the balance outstanding.

June 1, 2026
Date Issued

Panagiotis P. Roupas
Member, Landlord and Tenant Board

June 8, 2026
Date Amended

June 15, 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.