



Order under Section 69 Residential Tenancies Act, 2006

File Number: LTB-L-012183-26

In the matter of: 1313A, 13 HOMEWOOD AVE
TORONTO ON M4Y2J7

Between: The Dara Residences Landlord

And

James Martyn Tenant

The Dara Residences (the 'Landlord') applied for an order to terminate the tenancy and evict James Martyn (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 Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on May 28, 2026.

Only the Landlord's agent, Allan Jones, and the Landlord's representative, Howard Levenson, attended the hearing.

As of 10:07 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.

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 effective August 16, 2026.
2. On January 16, 2026, the Landlord gave the Tenant a first, voidable N5 notice of termination. The notice of termination contains the following allegations:
 - On November 3 and 4, 2025, the Tenant was observed smoking in the hallway on the third floor of the building.

- On December 23 and 24, the Tenant was observed smoking in the hallway, and the fire alarm went off.
 - On January 4, 2026, the Tenant was observed smoking in the hallway, and the fire alarm went off.
 - On January 15, 2026, the Tenant was observed smoking in the hallway, and the fire alarm went off more than once.
3. In accordance with section 64(3) of the Act, the Tenant can void a first N5 Notice by correcting the conduct outlined in the notice within 7 days of being served the notice. In this case, the voiding period is January 17, 2026, to January 23, 2026.
 4. The Landlord's agent, Alan Jones ('AJ'), testified that on December 24, 2025, at around 2:30 p.m., he saw the Tenant was smoking on the first floor of the building which set off the fire alarm. He testified that since it was a false fire alarm, the fire department charged the landlord back in the amount of \$1,200.00.
 5. AJ testified that on January 4, 2026, at a around 11:00 a.m. the Tenant was found smoking on the first floor, and the fire alarm went off. AJ testified that they have spoken to the Tenant about not smoking inside the building and given several warnings. He testified that on January 15, 2026, at 11:10 a.m., the Tenant was found smoking on the second floor of the building, and it caused the fire alarm to activate. He testified on the same day at 1:30 p.m., the fire alarm at the building went off again and the tenant was observed smoking. The property manager approached the Tenant to ask him to stop, and the Tenant became aggressive and put a finger to her face and made a threat that something will be done to her if she continues to watch him.
 6. AJ testified that on January 18, 2026, at 9:00 p.m., the fire alarm at the building was activated and during their investigation, they found the Tenant was carelessly smoking again and caused the fire alarm to activate. On January 22, 2026, the fire alarm was activated because the Tenant was smoking on the 3rd floor of the building.
 7. Based on the uncontested evidence presented, I find that the Tenant substantially interfered with the Landlord's lawful right, privilege or interest by continuing to smoke inside the residential complex and triggering false fire alarms. Based on the testimony of AJ, the Tenant continued to smoke inside the residential complex which triggered the fire alarm just a day after the Tenant's deadline to rectify the issues outlined in the N5 Notice, I find that the Tenant did not correct the behaviour alleged in the N5 Notice within the seven-day remedy period.
 8. The Tenant was required to pay the Landlord \$2,001.44 in daily compensation for use and occupation of the rental unit for the period from February 6, 2026 to May 28, 2026.
 9. Based on the monthly rent, the daily compensation is \$17.87. This amount is calculated as follows: \$543.41 x 12, divided by 365 days.
 10. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
 11. There is no last month's rent deposit.

12. The Landlord's uncontested evidence is that the Tenant was frequently seen smoking inside the building that is against the fire regulations. The matter was brought to the attention of the Tenant, but he continued to smoke in the prohibited location. His behaviour caused a false fire alarm. AJ testified that the building serves tenants with special care and tenants facing mental health issues. The false fire alarms are creating anxiety to the vulnerable tenants who often must evacuate and wait outside until the fire trucks arrive to reset the alarm. As such, The Landlord is seeking a termination of the tenancy.
13. However, the Landlord is aware that a reasonable timeline is necessary. They submit that the Tenant may face mental health issues.
14. The Tenant was not present at the hearing to provide any circumstances and there is otherwise no evidence in the record before me suggesting that the eviction ought to be refused or postponed.
15. I find allowing approximately 2 months for the Tenant to find new accommodations is reasonable due to the length of the tenancy and both Tenant's health issues.
16. Accordingly, 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 not be unfair to postpone the eviction until August 16, 2026 pursuant to subsection 83(1)(b) of the Act.

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 August 16, 2026.
2. If the unit is not vacated on or before August 16, 2026, then starting August 17, 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 August 17, 2026.
4. The Tenant shall pay to the Landlord \$2,001.44, which represents compensation for the use of the unit from February 6, 2026 to May 28, 2026. The Landlord shall deduct any amount the Tenant has paid since February 6, 2025.
5. The Tenant shall also pay the Landlord compensation of \$17.87 per day for the use of the unit starting May 29, 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 total amount the Tenant must pay the Landlord is \$2,187.44 minus any rent the Tenant has paid since February 6, 2026.

8. If the Tenant does not pay the Landlord the full amount owing on or before August 16, 2026, the Tenant will start to owe interest. This will be simple interest calculated from August 17, 2026 at 4.00% annually on the balance outstanding.

June 16, 2026
Date Issued

Vinuri Sivalingam
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 February 17, 2027 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.