



Order under Section 69 Residential Tenancies Act, 2006

File Number: LTB-L-003049-26

In the matter of: 4, 456 ERIE STREET WEST
WINDSOR ON N9A 6B9

Between: Giulio Macioce Landlord

and

Geoffrey Smith
Linda Smith Tenants

Giulio Macioce (the 'Landlord') applied for an order to terminate the tenancy and evict Geoffrey Smith and Linda Smith (the 'Tenants') because:

- the Tenants or another occupant of the rental unit has committed an illegal act or has carried out, or permitted someone to carry out an illegal trade, business or occupation in the rental unit or the residential complex involving the production of an illegal drug, the trafficking in an illegal drug or the possession of an illegal drug for the purposes of trafficking;
- the Tenants, another occupant of the rental unit or a person the Tenants permitted in the residential complex has seriously impaired the safety of any person and the act or omission occurred in the residential complex.

This application was heard by videoconference on April 8, 2026.

Only the Landlord attended the hearing.

As of 9:18 a.m. the Tenants was not present or represented at the hearing although properly served with notice of this hearing by the Board. 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 not proven on a balance of probabilities grounds for termination of the tenancy in the application. Therefore, the application is dismissed.

2. The Tenants were in possession of the rental unit on the date the application was filed.
3. On January 11, 2026, the Landlord gave the Tenants an N6 and an N7 notice, with a termination date of January 21, 2026.

N6 Notice of Termination

4. The N6 notice provides:
 5. The Landlord indicated that the Tenant, Linda Smith is Geoffrey Smith's mother.
 6. The Landlord testified that on January 9, 2026, Linda Smith found a clear bag containing powder in the rental unit, which she believed belonged to her son. The police attended and the bag was removed. The Landlord relied on a Windsor police report which states that Linda Smith reported finding her son's narcotics or powdered drugs in the unit.
 7. In this application, the Landlord bears the burden of proving on a balance of probabilities that in accordance with section 61 of the *Residential Tenancies Act*, 2006 (the 'Act') thatthe tenant or another occupant of the rental unit commits an illegal act or carries on an illegal trade, business or occupation or permits a person to do so in the rental unit or the residential complex" **AND** that the illegal act, trade, business or occupation involved: (i) the production of an illegal drug; (ii) the trafficking in an illegal drug, or (iii) the possession of an illegal drug for the purposes of trafficking. Thus, it is not enough for the Landlord to merely establish that illegal drugs were found in the rental unit
 8. The term "illegal act" is not defined in the Act but caselaw and LTB Interpretation Guideline 9 suggest that it includes a serious violation of a federal, provincial or municipal law that has the potential to affect the character of the premise or disturb the reasonable enjoyment of the landlord or other tenants: *Samuel Property Management Ltd. v. Nicholson*, 2002 CanLII 45065 (ON CA) at para 28.
 9. Here, the evidence establishes that a bag containing powder was found in the rental unit and removed by the police. However, there was no evidence that the substance was tested or confirmed to be an illegal drug. The Landlord also acknowledged that his evidence did not confirm that the substance was tested or confirmed to be an illegal drug. In addition, the Tenants with direct knowledge of the incidents set out on the N6 notice did

not attend the hearing to testify. The police officers who responded to the incident call also were not summonsed to testify. As a result, all of the Landlord's evidence about these incidents is hearsay.

10. Further, even if I found that Landlord's hearsay evidence was sufficient to establish that the bag contained an illegal drug, there is no evidence that the Tenant, occupant or a guest was involved in: (i) the production of an illegal drug; (ii) the trafficking in an illegal drug, or (iii) the possession of an illegal drug for the purposes of trafficking. Therefore, this portion of the Landlord's application is dismissed

N7 Notice of Termination

11. Subsection 66(1) of the Act states "a landlord may give a tenant notice of termination of the tenancy if, (a) an act or omission of the tenant, another occupant of the rental unit or a person permitted in the residential complex by the tenant seriously impairs or has seriously impaired the safety of any person; and (b) the act or omission occurs in the residential complex."
12. The N7 notice alleges that Geoffrey Smith repeatedly permitted unknown individuals into the residential complex and caused concerns among other Tenants. The Landlord relied on a pattern of conduct associated with Geoffrey Smith, included repeated attendance by unknown visitors at the residential complex, noise disturbances affecting neighbouring Tenants, police attendants at the rental unit, and domestic incidents involving the Tenants. Therefore, I am satisfied that the Tenants were provided with sufficient information, including dates and times to understand the case they had to meet.
13. The Landlord testified that Geoffrey Smith frequently permitted unknown individuals into the residential complex. The Landlord stated that other Tenants expressed concerns regarding these visitors and feared for their safety. He explained that on January 8, 2026, 2 unknown men, attended the building and used the intercom to contact Unit 4. Geoffrey Smith spoke to them through the intercom and instructed them to wait in the alley. Later that day, another unknown man attended in the building and again contacted Unit 4 through the intercom. The Landlord believes these individuals were associated with Geoffrey Smith. In addition, the Landlord also testified that on September 18, 2024, he found a syringe in the parking lot "near where a visitors bicycle had been parked." The Landlord believes the syringe was connected to the visitors associated with Geoffrey Smith, although there was no direct evidence establishing ownership.
14. The Landlord also testified regarding domestic incidents involving the Tenants. He stated that on October 17, 2024, police attended the rental unit. The Landlord observed Linda Smith shaking and bleeding from her forehead and observed Geoffrey Smith being handcuffed and taken away by police.
15. The Landlord stated that on January 9, 2026, another Tenant, Randy Parsons, complained about loud banging originating from the rental unit. The Landlord stated that Randy Parson and his wife resided in the unit below that rental unit and had complained about the noise on various occasions. Police attended the property and attempted to speak to Geoffrey Smith, but he did not answer the door.

16. While the evidence establishes disturbances, police attendance, and concerns among other occupants, I am not satisfied that the Landlord established on a balance of probabilities that the conduct of the Tenants, another occupant of the rental unit, or a person permitted in the residential complex by the Tenants has seriously impaired the safety of any person in the residential complex within the meaning of s. 66(1) of the Act.
17. I say this because the evidence falls short of establishing the level of serious risk or serious impairment required by this section. The Landlord's evidence concerning the more serious allegations were based entirely on information provided by others rather than the Landlord's direct observations. For instance, there was no direct evidence connecting this syringe found in the parking lot to the Tenants or any person permitted in the residential complex by the Tenants. In addition, the Landlord's evidence regarding how Linda Smith sustained her injuries was based on information provided by others. The Landlord also relied on the letter from Randy Parsons; however, Mr. Parsons did not attend the hearing to testify.
18. While this hearing was uncontested, the Landlord nonetheless must provide sufficient credible evidence to establish the specific allegations in the N7 Notice on the balance of probabilities. In this case, the Landlord's hearsay evidence was insufficient to meet that burden.
19. For the reasons provided above, this portion of the Landlord's application is also dismissed.

It is ordered that:

1. The Landlord's application is dismissed.

June 11, 2026
Date Issued

Adeela Alvez
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.