



## Order under Section 16.1 of the Statutory Powers Procedure Act and the Residential Tenancies Act, 2006

**Citation:** Butler v EQB, 2024 ONLTB 4999

**Date:** 2024-01-25

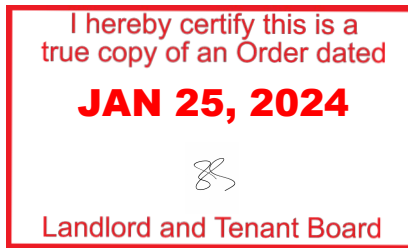
**File Number:** LTB-T-052868-23-IN3

**In the matter of:** 306B, 721 Earls Court Drive  
Sarnia Ontario N7S1V1

**Between:** Gary Butler

**And**

EQB



Tenant

Landlord

Gary Butler (the 'Tenant') applied for an order determining that EQB (the 'Landlord'):

- altered the locking system on a door giving entry to the rental unit or residential complex without giving the Tenant replacement keys.
- substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenant or by a member of their household.
- harassed, obstructed, coerced, threatened or interfered with the Tenant.

This application was heard by videoconference on January 8, 2024.

The Tenant and the Tenant's Legal Representative Melissa Bradley and the Landlord's Legal Representative Roman Komarov attended the hearing. Philip Scott testified on behalf of the Landlord.

### Determinations:

1. The focus of the hearing was to determine the status of the rental unit.
2. The rental unit was damaged by a fire that occurred on February 19, 2023.
3. The Landlord submitted an Order to Remedy Unsafe Building that was issued by the City of Sarnia on February 21, 2023. In the Order, access to the rental unit is restricted.
4. Philip Scott testified on behalf of the Landlord. Mr. Scott is the Senior Manager for Belfour Property Restoration and he specializes in large commercial losses. He is currently in charge of overseeing the repairs to the residential complex.
5. Mr. Scott testified the repairs to the rental unit are a two-step process. The first step, which has been completed, required water cleanup, smoke remediation and asbestos mitigation.

6. The second phase of the repairs requires the rental unit to be rebuilt. As of the hearing date, this has not been done and the unit is not fit for habitation. The rental unit has no ceilings, walls or finishings.
7. Mr. Scott testified the rental unit cannot be rebuilt in isolation and work cannot begin until three other units in the complex are vacated. These units in the complex are 106, 110 and 310. Mr. Scott explained that these other three units are interconnected to the rental unit and certain work, such as plumbing and fire separation, must be done at the same time it is done in these other units.
8. Mr. Scott estimated it would take approximately 8-10 months to complete the outstanding work once the other three units are vacant.
9. The Landlord's Legal Representative submitted that at least on N13 notice of termination had been served on the tenant of one of the interconnected units. The termination date on this notice is January 31, 2024. The Landlord has filed an L2 application in support of this notice however the Board has yet to schedule a hearing.
10. Based on the evidence taken, as of the day of the hearing, the Tenant is not entitled to the remedy of being returned to the unit. It would be inappropriate to grant this remedy at a time when the rental unit is not fit for habitation.
11. The remaining issues in the application, including remedies were not presented or considered at the hearing. The Tenant filed a request to amend his application with the Board and this amended application was provided to the Landlord at the hearing. Since there was insufficient time in the hearing block to continue hearing the application, and because the Landlord's Legal Representative had not seen the requested amendments, I adjourned the file to reconvene on a future date.

**It is ordered that:**

1. The hearing is adjourned to be reconvened on a date to be set by the Board.
2. At least 10 days before the hearing, the parties shall give each other and file with the Board a copy of any documents, receipts, photographs, recordings, or any other submissions they intend to rely on at the hearing.
3. The parties shall file and serve their evidence in accordance with the Board's Practice Direction on Evidence including:

All documents, photographs and other items provided to the other parties and the LTB as evidence must:

- a. be readable;
- b. have consecutively numbered pages; and

- c. include a list or table of contents identifying each item in order, and by page number, if more than one item is being submitted.
4. Pursuant to Rule 19.7 a party who fails to comply with this order may not be permitted to rely on evidence that was not properly disclosed.
5. All submissions to the Board must be uploaded on the Tribunals Ontario Portal (TOP) online. If necessary, submissions may also be submitted via email at [LTB.Evidence@ontario.ca](mailto:LTB.Evidence@ontario.ca), in accordance with the timeline set out in paragraph 1 above. The parties may also consent in writing to the exchange of documents using the online TOP portal.
6. The Tenant shall serve the Landlord their documents and evidence to the Landlord's Legal Representative's email at [rkomarov@liddclaywers.com](mailto:rkomarov@liddclaywers.com)
7. The Landlord shall serve the Tenant their documents and evidence to the Tenant's Legal Representative's email at [melissa.bradley@clas.clcj.ca](mailto:melissa.bradley@clas.clcj.ca)
8. On February 15, 2024 and by the 15th day of every other month until this file returns before the Board, the Landlord shall file with the Board and serve the Tenant an update on the progress made to complete the repairs of the rental unit, an updated timeline as to when the repairs to the rental unit are expected to be completed, and an update to the current status of the residential complex and units 106, 110 and 310.
9. I am seized with this matter.

**January 25, 2024**  
**Date Issued**



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John Cashmore  
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.