



**Order under Section 69  
Residential Tenancies Act, 2006**

**Citation:** RPMS PROPERTY MANAGEMENT SERVICES INC v Kevin Wilson, 2023 ONLTB  
46373

**Date:** 2023-09-18

**File Number:** LTB-L-034264-22

**In the matter of:** 1117, 77 HUNTLEY ST TORONTO  
ON M4Y2P3

**Between:** RPMS PROPERTY MANAGEMENT SERVICES INC Landlord

**And**

Kevin Wilson Tenant

RPMS PROPERTY MANAGEMENT SERVICES INC (the 'Landlord') applied for an order to terminate the tenancy and evict Kevin Wilson (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 June 15, 2023.

Only the Landlord's agent Steven Javier, the Landlord's witness D. Imrand and the Landlord's legal representative Geoff Paine attended the hearing.

As of 10:04 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 between the Landlord and the Tenant is terminated the Tenant must move out the rental unit on or before September 29, 2023.

- The Tenant was in possession of the rental unit on the date the application was filed.

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Substantial interference

- On June 8, 2022, the Landlord gave the Tenant an N5 notice of termination deemed served on June 8, 2022. The notice of termination contains the following allegations:

“The Tenant of Suite 1117 at 77 Huntley Street, Kevin Wilson, has substantially interfered with the reasonable enjoyment of the residential premises of the Landlord and other Tenants on the following:

- On April 22, 2022, at 3 :40pm, the Landlord conducted a suite inspection in Suite 1117. As the Landlord's Staff Members were exiting the elevator on the 11th floor, they witnessed an excessively strong and unpleasant odour emanating from Suite 1117 into the Hallway of the 11th Floor. The Landlord's Staff Members confirmed that the odour was emanating from Suite 1117 when they entered the Suite. The Landlord's Staff Members photographed dirt, grime, and debris scattered throughout the floor in Suite 1117.
- On May 25, 2022, 2:26pm, the Landlord conducted a suite inspection in Suite 1117. During the inspection the Landlord photographed dirt, grime, debris, and cat feces scattered throughout the floor in the suite. The Landlord also witnessed a strong unpleasant odour present in the suite.

The Tenant must maintain their Suite in an ordinary state of cleanliness. The Tenant must remove all dirt, grime, debris, and unpleasant odours from their Suite immediately.

The above noted behavior has substantially interfered with the reasonable enjoyment of the residential complex by the Landlord and other residents, as well as another lawful right, privilege, or interest of the Landlord and other residents.”

- The Tenant did not stop the conduct or activity or correct the omission within seven days after receiving the N5 notice of termination. The rental unit was inspected on June 16, 2022, the Landlord’s agent submitted that while the unit appeared to be in a more organized state than on prior occasions of April 22, 2022 and May 25, 2022 offensive urine odours as emanating from the Tenant’s rental unit could still be smelled down the hall and within unit. Therefore, the Tenant did not void the N5 notice of termination in accordance with s.64(3) of the *Residential Tenancies Act, 2006* (Act).
- The Landlord’s agent submitted that he was alerted of feces and urine smells by complaints from neighbouring units, one such complaint as entered into evidence was from the resident of unit #1121. In an email dated August 22, 2022 the Tenant of unit #1121 said, “For the mental and physical health of all the neighbours in floor 11, we

demand that the tenant in unit 1117, be evicted as soon as possible. We can not tolerate anymore so much stress and suffering because the odour that comes from his unit....”

6. The Landlord also evidenced a petition asking that the Landlord act on the complaints of odours from the Tenants residing in units #1119, #1122 and #1123 in addition to the Tenant residing in unit #1121.
7. Upon inspection, the odours were confirmed by the presence of multiple cats, multiple litter boxes and an appearance that the rental unit is only inhabited by cats. While the odour

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was of great concern, there was damage to the parquet flooring that appears to be caused by possible saturation of urine or other moisture, causing the flooring to lift in some areas and visible segments of the parquet flooring that has fallen out or has been removed in sections. This was evidenced in the photos as taken on inspection of the rental unit on April 22, 2022, May 25, 2022 and June 16, 2022.

8. Additionally, it was submitted by the Landlord's agent that based on the odours as emanating from the Tenant's unit, potential renters have been deterred, resulting in them declining rentals.
9. Based on the uncontested evidence, I am satisfied, that the Tenant's conduct has substantially interfered with the reasonable enjoyment of the residential complex by the other tenants and has interfered with the Landlords lawful rights, privileges and interests, and that the Tenant, having been properly notified of this matter on June 8, 2022, failed to correct the problem within the voiding period of June 9, 2022 to June 15, 2022.

### **Daily compensation**

10. The Tenant was required to pay the Landlord \$13,382.64 in daily compensation for use and occupation of the rental unit for the period from July 6, 2022 to June 15, 2023.
11. Based on the Monthly rent, the daily compensation is \$38.79. This amount is calculated as follows: \$1,179.87 x 12, divided by 365 days.
12. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
13. There is no last month's rent deposit.

### **Section 83 considerations**

14. 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. The Tenant did not attend the hearing to present evidence or submissions in support of granting relief from eviction and the Landlord's representative submitted that they are unaware of any circumstances that would cause me to delay or deny an 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 September 29, 2023.
2. If the unit is not vacated on or before September 29, 2023, then starting September 30, 2023, 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 September 30, 2023.

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4. The Tenant shall pay to the Landlord \$13,382.64 (less any amounts paid), which represents compensation for the use of the unit from July 6, 2022 to June 15, 2023.
5. The Tenant shall also pay the Landlord compensation of \$38.79 per day for the use of the unit starting June 16, 2023 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. If the Tenant does not pay the Landlord the full amount owing on or before September 29, 2023 the Tenant will start to owe interest. This will be simple interest calculated from September 30, 2023 at 6.00% annually on the balance outstanding.

**September 18, 2023**

**Date Issued**

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Alicia Johnson

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 January 9, 2024 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.

