



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

**citation:** YMCA Hamilton/Burlington/Brantford v Stryletz, 2023 ONLTB 45627

**Date:** 2023-06-27

**File Number:** LTB-L-067423-22

**In the matter of:** 209, 79 JAMES ST S HAMILTON  
ON L8P2Z1

**Between:** YMCA Hamilton/Burlington/Brantford Landlord

**And**

Stephen Stryletz Tenant

YMCA Hamilton/Burlington/Brantford (the 'Landlord') applied for an order to terminate the tenancy and evict Stephen Stryletz (the 'Tenant') because:

- the Tenant, another occupant of the rental unit or a person the Tenant permitted in the residential complex has seriously impaired the safety of any person and the act or omission occurred in the residential complex;
- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex used the rental unit or the residential complex in a manner that is inconsistent with use as a residential premises and that has caused or can be expected to cause significant damage.

This application was heard by videoconference on June 7, 2023. Only the Landlord's agents attended the hearing.

As of 1:30pm, 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.

2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On October 6, 2022, the Landlord gave the Tenant an N7 notice of termination with a termination date of October 17, 2022.
4. The N7 notice alleges that on October 5, 2022 the Landlord was unable to access the rental unit for a pest control inspection due to excessive clutter in the rental unit.

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5. The Landlord alleges that the excessive clutter poses a fire hazard and submitted into evidence photographs of the rental unit (LL exhibit #1). The photographs show excessive clutter and combustible material piled up to 3 ft high in the rental unit and with no clear egress in the unit. The Landlord's agents also testified that due to the clutter they are unable to open the front entrance door fully.
6. Based on the uncontested evidence before the Board I find that the excess clutter does pose a fire hazard in the rental unit and within the residential complex which consists of approximately 174 rental units. As such, I find that the Tenant has breached section 66(1) of the Act by seriously impairing the safety of another person within the residential complex. In *Furr v. Courtland Mews Cooperative Housing Inc.*, 2020 ONSC 1175 (CanLII) the Divisional Court confirmed that serious impairment of safety includes both actual impairment and a real risk of impairment.
7. I am not satisfied however that the Tenant's conduct is in breach of section 63 of the Act. This section is designed for situations where the Tenant has used the rental unit for a purpose other than residential use, which can be expected to cause significant damage to the rental unit. There was no evidence before me to support that the Tenant has been using the rental unit for a purpose other than residential use and the governing case law supports that storage in a rental unit can constitute residential use.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. 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.
10. The Tenant was not present at the hearing to dispute the Landlord's allegations, to propose an alternative to eviction or to give evidence that the conduct would be corrected going forward. As of the hearing date, the Landlord's evidence was that the rental unit remains in the same state as when the N7 notice was served.

**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 July 2, 2023.
2. If the unit is not vacated on or before July 2, 2023, then starting July 3, 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 July 3, 2023. The Sheriff is requested to expedite the enforcement of this order.
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 July 2, 2023, the Tenant will start to owe interest. This will be simple interest calculated from July 3, 2023 at 6.00% annually on the balance outstanding.

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**June 27, 2023**  
**Date Issued**

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Fabio Quattrociochi  
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 3, 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.

