



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

**Citation:** Houselink and Mainstay v Duran, 2023 ONLTB 17880

**Date:** 2023-02-09

**File Number:** LTB-L-066857-22

**In the matter of:** 44, 814 BROADVIEW AVE  
TORONTO ON M4K2P7

**Between:** Houselink and Mainstay Landlord

**And**

Chris Duran Tenant

Houselink and Mainstay (the 'Landlord') applied for an order to terminate the tenancy and evict Chris n/a Duran (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 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.

This application was heard by videoconference on January 25, 2023.

Only the Landlord's Representative, Judy Ngo attended the hearing. Riley Wigmore (RW), Michael Antoine (MA) and Ranga Morlin (RM), witnesses for the Landlord also attended the hearing. Ngo informed me that a Landlord also served a copy of the Notice of Hearing to the hearing. 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. Therefore, the tenancy is terminated.
2. The Tenant was in possession of the rental unit on the date the application was filed.

### **N7 Notice of Termination**

3. On October 31, 2022, the Landlord gave the Tenant an N7 notice of termination. The notice of termination contains the following allegations: The Tenant's dog is unleashed in the common areas including the hallway, lobby, garbage area and laundry room and referenced the following incidents: May 2, 2021 dog chased staff (Joy) on the 3<sup>rd</sup> floor hallway, November 10, 2021, the dog chased staff, MA in the hallway of 3<sup>rd</sup> floor, June 28, 2022 dog ran into the hallway and bit staff (RW), April 24, 2022, dog chased staff, MA; August 29, 2022 dog ran after staff, RM. Each incident the Landlord issued a warning to the Tenant to control his dog and keep him leashed.

### **Serious Impairment of Safety**

4. The Tenant has seriously impaired the safety of employees of the Landlord, RW, MA, RM by not controlling his pet and having his dog unleashed in the common areas of the residential complex. This conduct occurred in the residential complex.
5. On April 24, 2022, MA testified the Tenant's door was jarred open when he went to the 3<sup>rd</sup> floor when the Tenant's dog ran after him down the hallway. The dog was seen unattended left in the hallway.
6. On June 28, 2022, RW testified while he was in the hallway talking to another resident, not paying attention, the Tenant's dog bit his ankle, the dog's teeth penetrated his pants and caused his the skin to break and bleed. RW received medical attention, was given antibiotics and tetanus vaccine.
7. On August 29, 2022, RM was exchanging pleasantries at the Tenant's door when the Tenant's dog charged and bit him on the leg, the dog's teeth broke his skin and caused bleeding. RM sought medical attention and was given tetanus.
8. RW testified the Landlord has followed up with the information obtained by the Tenant about the dog's vaccinations but when the Landlord called the veterinarian, the were unable to confirm vaccination.
9. I also considered section 78(1) of the Act which gives extra protection to tenant's who have pets which states:

**76(1)** If an application based on a notice of termination under section 64, 65 or 66 is grounded on the presence, control or behaviour of an animal in or about the residential complex, the Board shall not make an order terminating the tenancy and evicting the tenant without being satisfied that the tenant is keeping an animal and that,

(a) subject to subsection (2), the past behaviour of an animal of that species has substantially interfered with the reasonable enjoyment of the residential complex for all usual purposes by the landlord or other tenants; (b)

subject to subsection (3), the presence of an animal of that species has caused the landlord or another tenant to suffer a serious allergic reaction; or  
(c) the presence of an animal of that species or breed is inherently dangerous to the safety of the landlord or the other tenants  
(2) The Board shall not make an order terminating the tenancy and evicting the tenant relying on clause (1) (a) if it is satisfied that the animal kept by the tenant did not cause or contribute to the substantial interference.

- 10. The Tenant’s dog is small and there was no evidence led that the dog was inherently dangerous based on its breed. The dog’s behaviour however substantially interferes with the reasonable enjoyment of the landlord as the dog has a history of chasing and causing injury to the staff which has the potential to seriously impair the safety of another person.
- 11. 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.
- 12. The Landlord has given the Tenant many warning letters as referenced on the N7 Notice and expressed concern with the dog’s being unleashed in the common areas and the Tenant has not complied. The witness testified the dog is seen running up and down the hallway with the Tenant unleashed. The dog was described as aggressive, has a tendency to chase the Landlord’s staff and has caused injury at least twice. Given there’s not enough proof of vaccination and given repeat behaviour, a conditional order will likely not preserve this tenancy. The Tenant also did not attend to make submissions to preserve his tenancy.

**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 February 20, 2023.
- 2. If the unit is not vacated on or before February 20, 2023, then starting February 21, 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 February 21, 2023. The Sheriff is requested to expedite the enforcement of this order.

**February 9, 2023**

\_\_\_\_\_ **Date I ssued**  
Sandra Macchione  
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 August 20, 2023 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.