



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

**Citation:** VICTOR DAVIS MEM. COURT NP HOMES INC. v BANDY, 2022 ONLTB 14600

**Date:** 2022-12-22

**File Number:** LTB-L-049849-22

**In the matter of:** 402, 87 NEEVE STREET  
GUELPH ONTARIO N1E6Z5

**Between:** VICTOR DAVIS MEM. COURT NP HOMES INC. Landlord

**And**

REBECCA BANDY Tenant

VICTOR DAVIS MEM. COURT NP HOMES INC. (the 'Landlord') applied for an order to terminate the tenancy and evict REBECCA BANDY (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 (N7 notice of termination).

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date (altogether, the L2 application). The L2 application was heard by videoconference on October 31, 2022

Reference is made to the LTB hearing held by videoconference on October 31, 2022, when both parties were present and/or represented and when the merits of the L2 application were heard.

Additional reference is made to the interim order issued on November 18, 2022, under file number LTB-L-049849-22\_IN1 (hereinafter, the "LTB Interim Order").

Pursuant to the direction set out in the LTB Interim Order for post-hearing action and submissions, I confirm the LTB received submissions only from the Landlord on December 14, 2022. Those submissions confirm the Tenant complied with the "Action Required" points set out in the City of Guelph's Fire Department Inspection Order issued on December 2, 2021 (exhibit LL#2). The Landlord stated they are satisfied with the Tenant's compliance in respect of the Fire Department's Order and requested the appropriate final conditional order be issued..

**Determinations:**

- I confirm the key determination in the LTB Interim Order, that is, paragraph 18 therein which states:

*"Based on the submissions made by the parties, and on a balance of probabilities, I find the Tenant has seriously impaired, and is seriously impairing, the safety of herself and*

*other residents of the building due to the fire hazards in the rental unit posed by the large amounts of undue clutter.”*

2. Based on the Landlord’s post-hearing submissions, I am satisfied the Tenant has complied with the City of Guelph’s Fire Department inspection order (dated December 2, 2021-LL#2).
3. 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 not be unfair to grant relief from eviction by issuing a conditional order to have the Tenant continue maintaining the rental unit in an uncluttered, safe (fire-risk free) state for the duration of the tenancy. The conditions are set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.
4. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.

**It is ordered that:**

1. The Landlord’s application for termination of the tenancy under this L2 application is denied if the Tenant complies with the following terms:
  - a) For the duration of the tenancy, the Tenant shall not seriously impair the safety of another person (including herself) in the rental unit or in the residential complex as set out in the claims contained in the N7 notice of termination that forms the basis of this application; and
  - b) more specifically for the sake of clarity, the Tenant shall at all ensure the rental unit is kept in an uncluttered, fire-risk free state throughout the tenancy by;
    - Maintaining minimum 3-feet (36 inches) clear pathways from all rooms to both the front and back doors;
    - Ensuring no combustible materials are stored or stacked to reach within 3-feet of the ceiling in the rental unit;
    - Ensuring there are no combustible materials within 12 inches of the rental unit stove in the kitchen and from the intake to the furnace;
    - Ensuring all doors in the rental unit can be opened and closed completely as they are supposed to;
    - Ensuring the amount/state of combustibles in the rental unit never exceeds the amount/state achieved when the Tenant complied with the LTB Interim Order; and
    - Ensuring there are no combustibles on the balcony at any time, which will also ensure safe egress (exiting).
2. To ensure the Tenant complies with this order throughout the tenancy, the Landlord shall have the right to inspect the rental unit, subject to the Landlord providing proper notice-of-entry to the Tenant in accordance with the Act. Once proper notice-of-entry is given, and whether or not the Tenant is present, the Tenant shall:

- cooperate fully with the Landlord by providing unfettered access into the rental unit for the Landlord, the Landlord's agent(s) or city officials (such as Fire Department personnel), to conduct an inspection of the rental unit including the balcony.

The Landlord may conduct such inspections, at the Landlord's sole discretion, once per month for all twelve months of 2023, and then afterward starting on January 1, 2024, the Landlord may conduct such inspections once every two months, again at the Landlord's sole discretion.

3. If the Tenant does not comply with any part of paragraphs 1 of 2 of this order, the Landlord may apply, without notice to the Tenant, and without a hearing, to terminate the tenancy and evict the Tenant, pursuant to section 78 of the Act. Such an application must be filed within 30 days of a breach of paragraph 1 or 2 of this order, and must be accompanied by a detailed affidavit setting out the circumstances and date of the breach.
4. The Tenant shall pay \$201.00 to the Landlord for the cost of filing this L2 application.
5. If the Tenant does not pay the Landlord the full amount owing on or before January 31, 2023, the Tenant will start to owe interest. This will be simple interest calculated from February 1, 2023 at 5.00% annually on the balance outstanding.

**December 22, 2022**  
**Date Issued**

Alex Brkic  
Member, Landlord and Tenant Board

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Toronto ON M7A 2G6

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.