



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

**Citation:** Gorchynski v Tielve, 2024 ONLTB 58466

**Date:** 2024-08-07

**File Number:** LTB-L-063882-23

**In the matter of:** lower 'A', 454 MAYZEL RD  
BURLINGTON ON L7R3C3



**Between:** Grant Gorchynski

Landlord

**And**

Catherine Jane Tielve

Tenant

Grant Gorchynski (the 'Landlord') applied for an order to terminate the tenancy and evict Catherine Jane Tielve (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

This application was heard by videoconference on April 15, 2024. Only the Landlord attended 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.

**It is determined that:**

1. The Tenant was in possession of the rental unit on the date the application was filed.
2. The Tenant vacated the unit on October 1, 2023. As the tenancy is terminated, the Landlord sought an order for the filing fee only.

**N5 Notice of Termination -Substantial interference**

3. The Landlord served the Tenant a voidable N5 Notice of Termination ('N5 notice'), with a termination date of September 20, 2023, alleging that the Tenant's behaviour has substantially interfered with another tenant's or the Landlord's reasonable enjoyment of the residential complex or lawful rights, privileges, or interests.
4. The N5 Notice alleges the Tenant has accosted and bullied another person, using profanity, banging on ceilings for units above her, smoking in the premises, misuse of the laundry facilities and failed to take out garbage and recycling.
5. The N5 Notice does not contain any dates or times that it is alleged that the Tenant has conducted these activities.
6. Pursuant to subsection 43(2) of the Act, where a landlord gives a tenant a notice of termination "it shall also set out the reasons and details respecting the termination..." It is a

requirement for any application to terminate a tenancy that the notice clearly establish the details about the events that led to the landlord giving the tenant the notice.

7. I find that the N5 notice failed to meet the requirements of subsection 43(2) of the *Residential Tenancies Act, 2006*, S.O. 2006, c.17 ('Act'), and the principles established in the case of *Ball v. Metro Capital Property*, [2002] O.J. No. 5931 ('*Ball*').
8. In the *Ball* case, the Divisional Court held that in order to be considered, a claim must have sufficient details and particulars, including dates and times and a detailed description of the alleged conduct complained of, in order to allow the person against whom the claim is made to know the case to be met, to void the notice (if applicable), to be able to decide whether to dispute the allegations, and to prepare for the hearing accordingly.
9. The claims in the N5 Notice do not set out the details with respect to the dates the alleged events/activities took place as required by subsection 43(2) of the Act and the *Ball* case. I find that the allegations in the N5 Notice that the Landlord's L2 application is based on does not provide sufficient details and reasons to allow the Tenant to respond to the allegations made and is therefore void.
10. As I find that the voidable N5 Notice of Termination is void, the Landlord's application must be dismissed.

**It is ordered that:**

1. The Landlord's application is dismissed.

**August 7, 2024**  
**Date Issued**



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Donna Adams  
Member, Landlord and Tenant Board

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