



I hereby certify this is a true copy of an Order dated
February 18, 2025
CMD
Landlord and Tenant Board

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

File Number: LTB-L-088842-24-HR

In the matter of: 2, 248 HILDA ST
ORILLIA ON L3V1J1

Between: Balmoral Developments Hilda Inc. o/a Hilda House Landlord

And

Amy Marie McLauchlan Tenant
Mark Baker

Balmoral Developments Hilda Inc. o/a Hilda House (the 'Landlord') applied for an order to terminate the tenancy and evict Amy Marie McLauchlan and Mark Baker (the 'Tenants') because:

- the Tenants, another occupant of the rental unit or someone the Tenants 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 Tenants remained in the unit after the termination date.

This application was heard by videoconference on February 6, 2025.

The Landlord's Legal Representative, Nicole Fazzari and the Landlord attended the hearing.

As of 11:19 a.m., the Tenants were 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. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy and/or the claim for compensation in the application. Therefore, the tenancy is terminated as of March 1, 2025.
2. The Tenants were in possession of the rental unit on the date the application was filed.

Notice of Termination

First N5 Notice

3. On April 16, 2024, the Landlord gave the Tenant a first, voidable N5 notice of termination in accordance with section 64(1) of the *Residential Tenancies Act, 2006* (the 'Act'). The

notice of termination was deemed served on April 16, 2024, and contained the following allegations:

- On April 16, 2024 at about 11:00 a.m. while the Tenants were walking their dog who was having a bowel movement and dropping the feces all over the walkway, the Tenants callously kept walking away and left the feces on the sidewalk where other tenants and children could walk through them.
4. The Tenants have the opportunity to void the notice in accordance with section 64(3) of the Act which states:

64(3) The notice of termination under subsection (1) is void if the tenant, within seven days after receiving the notice, stops the conduct or activity or corrects the omission.
 5. In this case, the seven-day period begins the day following the service of the N5 Notice, from April 17, 2024 to April 23, 2024.
 6. The Landlord testified that residential complex is comprised of 25 units and there are many young families that reside in the complex. The Landlord stated that the Tenants allow their dog to continually defecate on the sidewalk entering the complex in addition to other areas of the property where the children of the complex play. The Landlord explained that the actions of the Tenants not picking up after their dog is causing a hazard to the health and safety of the residents, especially the children in the complex who are outside playing.
 7. However, the Landlord did not submit any documentation or provide any testimony that the Tenants behaviour continued within the seven-day period during the period of April 17, 2024 to April 23, 2024.
 8. I find that the Tenant has voided this portion of the N5 Notice.

Second N5 Notice

9. On October 3, 2024, the Landlord gave the Tenants a second N5 notice of termination deemed served on October 8, 2024. The Landlord was allowed to give the Tenants a second, non-voidable N5 notice of termination under section 68 of the Act.
10. Section 68(1) of the Act states:

68(1) A landlord may give a tenant a notice of termination of the tenancy, if

(a) A notice of termination was given to the tenant under section 62, 64, or 67; and

(b) more than seven days but less than six months after the notice mentioned in clause (a) was given to the tenant, an activity takes place, conduct occurs or a situation arises that constitutes grounds for notice of termination under section 60, 61, 62, 64, or 67, other than activity, conduct or situation that is described in subsection 61(1) and that involves an illegal act, trade, business, or occupation described in clause 61(2)(a).

11. The second N5 notice of termination contains the following allegations:
 - On September 23, 2024, an agent of the Landlord was informed by a family member of the Tenants that he had screwed a window in the Tenant's unit shut so it would no longer open.
 - On September 27, 2024, an agent of the Landlord conducted an inspection of the unit and confirmed that the window in the Tenant's unit had been secured with screws making the window no longer able to be opened.
 - On October 1, 2024, the Tenants allowed their dog to relieve itself on the common elements of the residential complex and did not pick up the waste afterwards.
12. The Landlord testified that despite the prior N5 Notice served to the Tenants that they continue to allow their dog to relieve itself on the common walkway of the residential complex and in other common areas of the residential complex thereby disturbing the enjoyment of the residential complex by other tenants and interfering with the safety of the children who live in the residential complex and play on the common area grounds.
13. The Landlord testified that the Tenant's unit is a basement unit and the windows to the unit are a secondary escape mechanism for the Tenants from their unit in case of a fire given that their unit is in the basement of the building. The Landlord explained that when they were advised that a family member of the Tenants had inserted screws into the window frame to not permit it to open, they completed a unit inspection and found that the window was forced shut and damaged thereby compromising the Tenants ability to escape the unit in the event of an emergency if leaving the unit by its entrance door was not possible.
14. The Landlord submitted a series of pictures from the unit inspection conducted on September 27, 2024 showing the window in the Tenants unit sealed shut with screws inserted into the window casing. In addition, the Landlord submitted pictures of the exterior walkway and interior carpet of the common area which show dog feces and what appears to be urine stains on October 1, 2024 when the Tenants dog relieved himself and the Tenants did not pick up after the dog.
15. I find based on the uncontested evidence before me and the testimony of the Landlord that the Landlord has proven, on a balance of probabilities, that the conduct of the Tenants as alleged in the second N5 Notice of Termination has substantially interfered with the Landlord's and the other tenants' reasonable enjoyment of the residential complex by allowing their dog to relieve themselves in the common area outside and inside of the building and not picking up after them. Further, I find that the Tenants behaviour of sealing the window in their unit preventing the window from opening poses a safety risk to the Tenants as well as the other tenants who reside in the residential complex.

Daily compensation, NSF charges, rent deposit

16. The Tenants were required to pay the Landlord \$8,091.34 in daily compensation for use and occupation of the rental unit for the period from October 23, 2024 to February 6, 2025.

17. Based on the Monthly rent, the daily compensation is \$75.62. This amount is calculated as follows: \$2,300.00 x 12, divided by 365 days.
18. The Landlord collected a rent deposit of \$2,300.00 from the Tenants and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$69.16 is owing to the Tenants for the period from November 25, 2023 to February 6, 2025.
19. The amount of the rent deposit and interest on the rent deposit is applied to the amount the Tenants are required to pay.

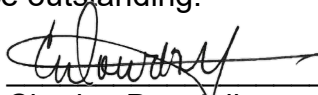
Relief from eviction

20. 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.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated. The Tenants must move out of the rental unit on or before March 1, 2025.
2. If the unit is not vacated on or before March 1, 2025, then starting March 2, 2025, 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 March 2, 2025.
4. The Tenants shall pay to the Landlord \$8,091.34, which represents compensation for the use of the unit from October 23, 2024 to February 6, 2025. The Tenants shall be credited with any rent payments that have been made since October 23, 2024.
5. The Tenants shall also pay the Landlord compensation of \$75.62 per day for the use of the unit starting February 7, 2025 until the date the Tenants move out of the unit.
6. The Landlord owes \$2,369.16 which is the amount of the rent deposit and interest on the rent deposit, and this is deducted from the amount owing by the Tenants.
7. The total amount the Tenant owes the Landlord is \$5,722.18. The Tenants shall be credited with any rent payments that have been made since October 23, 2024.
8. If the Tenants do not pay the Landlord the full amount owing on or before March 1, 2025, the Tenants will start to owe interest. This will be simple interest calculated from March 2, 2025 at 5.00% annually on the balance outstanding.

February 18, 2025
Date Issued



Charles Dowdall
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 September 2, 2025 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.