

Order under Section 69
Residential Tenancies Act, 2006

File Number: SOL-18082

The Landlord applied for an order to terminate the tenancy and evict the Tenant because she, another occupant of the rental unit or someone she 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 in Hamilton on January 13, 2009.

The Landlord and his representative, R. B., attended the hearing. The Tenant also attended the hearing and was represented by Tenant Duty Counsel.

Determinations:

1. The N5 Notice of Termination that the application is based on is void since it does not contain sufficient details. The notice does not contain dates and times that the Tenant has been smoking in the rental unit or leaving her door unlocked.
2. Pursuant to subsection 43(2) of the *Residential Tenancies Act, 2006*, a notice of termination must set out reasons and details. The Division Court has held that reasons and details should include dates and times that the alleged conduct took place. (*Ball v. Metro Capital Property* [2002] O.J. No. 5931, Div. Ct.) Divisional Court decisions are binding on members of the Board and must be followed.
3. Since the N5 Notice is void there is no jurisdiction to terminate the tenancy.

It is ordered that:

1. The Landlord's application is dismissed without prejudice.

January 14, 2009

Date Issued

Southern Region
6th floor, 119 King Street West
Hamilton ON L8P 4Y7

Karen Wallace

Member, Landlord and Tenant Board

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