



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

**File Number:** TSL-21777-21

**In the matter of:** 565 SHERBOURNE STREET  
TORONTO ON M4X1W7

**Between:** Medallion Corporation

**and**

Chad W. Testes  
Stacy W. Cerebri

I hereby certify this is a  
true copy of an Order dated

**FEB 9, 2022**

TR

Landlord and Tenant Board

Landlord

Tenants

Medallion Corporation (the 'Landlord') applied for an order to terminate the tenancy and evict Stacy W. Cerebri (SWT) and Chad W. Testes (CWT) (the 'Tenants'). The Landlord also claimed compensation for each day the Tenants remained in the unit after the termination date.

This application was heard via video/teleconference on October 12, 2021.

Only the Landlord's Legal Representative Mark Melchers attended the hearing.

As of 3:40 p.m., the Tenants were not present or represented at the hearing although properly served with notice of this hearing by the Board.

**Determinations:**

1. On May 4, 2021 the Landlord filed the application to end the tenancy and evict the Tenants based on two (N5 form) notices for termination given to the Tenants.
2. The first N5 notice was given to the Tenant on December 11, 2020, alleging the behaviour and conduct of the Tenant (IBH) has substantially interfered with the reasonable enjoyment of other Tenants and the lawful right, privilege and interests of the Landlord.
3. Subsection 64(1) of the Act states: A landlord may give a tenant notice of termination of the tenancy if the conduct of the tenant(s), another occupant of the rental unit or a person permitted in the residential complex by the tenant(s) is such that it substantially interferes with the reasonable enjoyment of the residential complex for all usual purposes by another tenant or substantially interferes with another lawful right, privilege or interest of the landlord or another tenant.
4. The notice alleged that the Tenant (CWT) does not wear a face mask in the residential complex or follow other COVID pandemic recommendations as required by the City of Toronto Health Authority guidelines, and was verbally abusive to the Landlord's property administrative employees, as well as verbally confronting other tenants if they are wearing a mask or are vaccinated.

5. Section 64(3) of the Residential Tenancies Act 2006, (the 'Act') provides that the type of N5 Notice served by the Landlord is void if the Tenant(s), within seven (7) days after receiving the notice stops the activity or corrects the conduct/behaviour. In this case, the N5 was served on December 11, 2020, which means the seven (7) day voiding period ran from December 12, 2020 to December 18, 2020.
6. The Landlord provided no documentary evidence that the Tenant(s) abusive behaviour or conduct continued during the voiding period, therefore, I must find the Tenant(s) voided the first N5 notice.
7. Pursuant to section 68 of the Act, before serving a second N5 notice of termination the Landlord must have previously been given a valid first notice of termination with an opportunity to void the notice within 7 days of it being given. It is only if this first notice is given and the conduct resumes or a situation arises that constitutes grounds for a notice of termination within six months after the first notice was given that a non-voidable N5 notice can be served.
8. A second (N5) notice was given to the Tenants on April 30, 2021 for further abusive behaviour complaints that the Landlord received from other tenants in the residential complex regarding the Tenant (CWT) ongoing preaching to them about his own opinion about vaccinations. The Tenant (CWT) continued to speak inappropriately to other tenants regarding their personal beliefs of the COVID pandemic.
9. While the Tenant (CWT) may be medically exempt from wearing a face mask, he continues to be required by municipal and provincial health regulations to respect and follow other guidelines such as social distancing while in the common areas of the residential complex.
10. The Tenants did not attend the hearing to make submissions.
11. Based on the Landlord's uncontested testimony, I find the Tenant(s) have substantially interfered with the reasonable enjoyment of the residential complex for all usual purposes by another tenant or substantially interferes with another lawful right, privilege or interest of the landlord or other tenants that reside in the residential complex.
12. 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. The Tenant(s) were provided an opportunity to retain their tenancy by refraining from having unwanted conversations with other tenants regarding the COVID 19 pandemic and their personal choice on vaccinations and masks, to no avail.
13. The Landlord collected a rent deposit of \$1,380.34 from the Tenants and this deposit is still being held by the Landlord. Interest on the rent deposit is owing to the Tenants for the period from January 1, 2021.
14. The order contains all the reasons for the decision within the order. No other reasons will be issued.

**It is ordered that:**

1. The tenancy between the Landlord and the Tenants is terminated effective February 20, 2022. The Tenant(s) must moved out of the rental unit on or before February 20, 2022.
2. The Tenants shall pay to the Landlord \$10,681.82, which represents compensation for the use of the unit from May 18, 2021 to February 9, 2022, less the rent deposit and interest the Landlord owes on the rent deposit.
3. The Tenants shall also pay to the Landlord \$45.01 per day for compensation for the use of the unit from February 10, 2022 to the date they move out of the unit.
4. The Tenants shall also pay to the Landlord \$186.00 for the cost of filing the application.
5. If the Tenants do not pay the Landlord the full amount owing on or before February 20, 2022, they will start to owe interest. This will be simple interest calculated from February 21, 2022 at 2.00% annually on the balance outstanding.
6. If the unit is not vacated on or before February 20, 2022, then starting February 21, 2022, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
7. 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, 2022.



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Randy Aulbrook  
Member, Landlord and Tenant Board

**February 9, 2022**  
**Date Issued**

Toronto South-RO  
15 Grosvenor Street, 1st 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.