



**Amended Order
Order under Section 31 and 130
Residential Tenancies Act, 2006 and
Section 21.1 of the Statutory Powers Procedure Act**

Citation: Yu v Toronto Community Housing Corporation, 2025 ONLTB 88936

Date: 2026-01-05

File Number: LTB-T-054782-22-AM

In the matter of: 101, 11 Sullivan Street
Toronto ON M5T1B8

Between: Jacqueline Yu Tenant

And

Toronto Community Housing Corporation Landlord

Jacqueline Yu (the 'Tenant') applied for a reduction of the rent charged for the rental unit due to:

- a reduction or discontinuance in services or facilities provided in respect of the rental unit or the residential complex (*T3 Application*).
- substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenant or by a member of their household (*T2 Application*).

This application was heard by videoconference on October 15, 2024. The Landlord's Agent, Camille Abraham, Represented by Travis King, and the Tenant, Represented by Harsha Shivare, attended the hearing.

The matter concluded on November 13, 2025. The Landlord's Agent, Camille Abraham, Represented by Travis King, and the Tenant, Represented by Barrington Lue Sangh, attended the hearing.

This amended order is issued to correct clerical errors in the order issued on November 24, 2025.

Determinations:

Preliminary Issues:

1. The Tenant sought to amend her application. The first amendment was done on **May 25, 2024**, ~~June 2, 2025~~, prior to the first hearing. Although the amendments were not done in accordance with the deadlines stated on the LTB-T-054782-22-IN, there was no objection to the amended application.

2. However, the Tenant sought amend her application further on November 13, 2025. This amended application was served on the Landlord on or about November 6, 2025. The Landlord raised an objection to the amendments and to the Tenant materials which were also provided to the Landlord less than 7 days in advance as required by the Board's *Rules*.
3. The Tenant's Representative agreed the materials were late stating that he had only been retained a few weeks prior.
4. In my view, the Landlord should not be prejudiced by the late disclosure and further amendments because of the Tenant's decision to retain new counsel a few weeks prior to the hearing. Prejudice to the Tenant could be avoided by providing oral testimony about the contents of any of the documents she wished to rely on. However, I found it would be prejudicial to the Landlord to allow further amendments to the Tenant's application which were not served in accordance with the Board's *Rules*.
5. Therefore, it was agreed on by the parties that the May 25, 2024, ~~June 2, 2022~~, amended application would be the version upon which the hearing would be based, and the Tenant's request to amend their application to that date was granted.

Tenant's T3 Application

6. The Landlord submits that they are exempt from s.130 of the *Residential Tenancies Act* ('the Act'), pursuant to the provisions found in s. 7 of the Act. Section 7 of the Act pertains to exemptions under the Act for social housing providers and covers s.130 of the Act. The Landlord states that they are a social housing provider pursuant to the *Housing Services Act*.
7. Section 7(2) of the Act states: "A rental unit in a designated housing project as defined in the *Housing Services Act, 2011* that is owned, operated or managed by a service manager or local housing corporation as defined in that Act."
8. Section 130(1) of the Act states: "A tenant of a rental unit may apply to the Board for an order for a reduction of the rent charged for the rental unit due to a reduction or discontinuance in services or facilities provided in respect of the rental unit or the residential complex."
9. Services and facilities are described in s.2(1) of the Act and include: "(e) common recreational facilities." The allegations before the Board include the loss of the common area lawns which are outside and form part of the residential complex and these should be included in the definition of "common recreational facilities."
10. Given the provisions found in s. 7(2) of the Act, I find that the Tenant cannot bring an application under s.130 of the Act, as the Act specifically exempts the Landlord from this application. Therefore, the Tenant's T3 application is dismissed.

Tenant's T2 Application

11. As explained below, the Tenant did not prove the allegations contained in the application on a balance of probabilities. Therefore, the Tenant's application is dismissed.
12. By way of background, the Tenant has lived in the rental unit for over 20 years. For about 14 years, the Tenant had access to the common area lawn ('lawn') and took pride tending to a garden, planting flowers, and watering the grass.
13. The lawn was being used indiscriminately by people from the complex and from other nearby buildings. These people also disturbed the Tenant because these people often brought their dogs, the dogs barked and sometimes left excrement on the lawn. The Tenant raised a complaint with the Landlord and asked that these individuals be restricted from accessing the common area lawn.
14. In response to the Tenant's concerns, in June of 2021, the Landlord fenced the lawn area and placed a lock on the gate to prevent any access to the lawn.
15. The Tenant also submits that another tenant in the building, who lived above the Tenant, suffered from serious mental health problems. This resulted in this individual throwing various items from feces to furniture over the balcony on to the lawn which was located directly outside her rental unit. These issues took place on multiple occasions; however, the Tenant's application specifies seven instances between September 26, 2021, and June 5, 2023.
16. The questions the Board must answer are:
 - Is the Tenant entitled to a remedy for the loss of a service or facility made under s. 31(1) of the Act when prohibited from doing so under s.130 of the Act?
 - Did the Landlord respond reasonably to the Tenant's concerns about the neighbour throwing items over the balcony?

Is the Tenant entitled to a Remedy under s.31(1) of the Act?

17. The Tenant's application is made pursuant to s. 29(1)(3) of the Act, which states:
 - (1) A tenant or former tenant of a rental unit may apply to the Board for any of the following orders:
 3. An order determining that the landlord, superintendent or agent of the landlord has substantially interfered with the reasonable enjoyment of the rental unit or residential complex for all usual purposes by the tenant or a member of his or her household
18. The Tenant's application seeks remedies under Section 31(1)(c) and (f) of the Act, which states:
 - (1) If the Board determines that a landlord, a superintendent or an agent of a landlord has done one or more of the activities set out in paragraphs 2 to 6 of subsection 29 (1), the Board may,

- (c) order an abatement of rent;
- (f) make any other order that it considers appropriate.

19. The Landlord submits that the Tenant should not be entitled to a remedy pursuant to s.31(1) for the same reasons which underpins the exemptions under s.7 of the Act mentioned above. That is, since the remedy for the loss of a service is not open for the Tenant to be awarded a rent reduction pursuant to s.130, this should also preclude the Tenant from claiming an abatement for substantial interference because of the loss of access to the common area lawn.
20. In the Ontario Court of Appeal decision in *Onyskiw v. CJM Property Management*, 2016 ONCA 477 (CanLII) (“Onyskiw”), the Court of Appeal states, at par. 39:

“[39] The question as to how a statutory provision should be interpreted has been answered definitively by the Supreme Court of Canada. On numerous occasions, the court has adopted the approach to statutory interpretation espoused by E.A. Driedger as the only applicable approach, namely:

[T]he words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament.”

21. There may be instances where a tenant may be entitled to a remedy pursuant to s.31(1) under the Act, even where the complaint arises from the loss of a service or facility where the landlord is exempt from the provisions found in s.130. For example, had the landlord refused access to the lawns to a tenant or group of tenants based on a *Human Rights Code* protected ground, this would still validly form the basis of an application before the Board.
22. However, that is not the case here. The Tenant requests an abatement for the loss of the use and access of the lawn. [Note the Tenant also seeks abatement on other grounds which are discussed below]. In this instance, and when I consider the Court of Appeal’s guidance in *Onyskiw*, I find it would be inconsistent with the intent of legislature to be statute barred from providing a remedy because of the loss of the service or facility pursuant to s.130 of the Act, to then provide the remedy of an abatement, which forms a part of the remedies requested before the Board, under a different section of the Act, for the exact same reason.
23. Its for the same reason that the Tenant’s other claimed remedies made under s. 31(1)(f) of the Act; that is, to be given access to the lawn, cannot be awarded.

Did the Landlord respond reasonably to the Tenant’s concerns about the neighbour throwing items over the balcony?

24. The Tenant also claims that the Landlord failed to address her concerns about the tenant who occupied the rental unit above the Tenant’s. The items ranged from human feces to caustic liquids. In one instance, there was some sort of liquid which the Tenant believes was caustic. The odour from the liquid seeped through her open windows, and she

suffered from headaches for a few days afterwards although she did not seek medical attention.

25. The Tenant would file requests for maintenance using the Landlord's portal. After lodging the complaint online, the Landlord would send an automatic reply indicating that they would attend to the issue within 72 business hours. However, if she complained because the issue took place on the weekend, it took even longer to have someone attend to the problem.
26. In cross-examination, the Tenant agreed that the requests for maintenance were usually attended to within about three days of having made the complaint. She also agreed that there was an emergency telephone number she could call and that someone would answer the phone if she called the number. The Tenant also admitted she generally did not follow up with a phone call after having sent in the online complaint.
27. *Onyskiw* provides a guiding framework for the analysis of alleged breaches. Rejecting the reflective lens that an interruption of service or occurrence of a problem constitutes an automatic breach of the Act, the Court of Appeal urged the Board to use a "contextual approach" to the analysis of maintenance and repair issues.
28. To my mind, what the Court of Appeal is urging in *Onyskiw* is for the Board to pay attention to the "big picture" in each case - to take a hard and practical look at what is really going on in each matter, including scrutiny of the essential basis/nature of a tenant's complaints (para. 86) and the steps, if any, taken by the Landlord (para. 19 through 21).
29. The Tenant's own submissions were that the Landlord almost always responded to the request for maintenance within three days or fewer, from having made the complaint online. She also agreed that if there was an emergency, the Landlord staffed a telephone line for immediate assistance. It seems to me if the Tenant was dissatisfied with the time it was taking to address her requests for maintenance, the Tenant did not follow up with a phone call to the emergency line. I am not satisfied that the Tenant has proven, on a balance of probabilities, that the Landlord substantially interfered with her reasonable enjoyment of the rental unit by failing to address her requests for maintenance. The evidence shows that the Landlord did respond usually within three days, which I find to be reasonable, given the Court of Appeal's analysis in *Onyskiw*.
30. This order contains all of the reasons within it. No further reasons shall issue.

It is ordered that:

1. The Tenant's application is dismissed.

January 5, 2026
Date Amended

Jane Dean
Member, Landlord and Tenant Board

November 24, 2025
Date Issued

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.