



Order under Sections 31 / 135 Residential Tenancies Act, 2006

Citation: Nussbaum v Ellis, 2026 ONLTB 719

Date: 2026-01-09

File Number: LTB-T-059150-24

In the matter of: Basement Unit, 466 Roxton Road
Toronto ON M6G3R4

Between: Travis Nussbaum Tenant

And

Lisa-Annabel Ellis Landlord

Travis Nussbaum (the 'Tenant') applied for an order determining that Lisa-Annabel Ellis (the 'Landlord'):

- 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').
- collected or retained money illegally ('T1 Application').

This application was heard by videoconference on November 26, 2025.

The Landlord, the Tenant, and the Tenant's witness, Jason Nussbaum ('JN'), attended the hearing.

Determinations:

Preliminary Issue

1. The applications originally named JN as a tenant party. JN is the Tenant's father. The evidence was that JN paid the rent on behalf of the Tenant, but did not sign the tenancy agreement, and never lived in the rental unit.
2. JN was therefore not a "tenant" for the purposes of the *Residential Tenancies Act, 2006* (the 'Act'), and is removed as a party to the applications.

Merits of the Applications

3. The factual allegations in the T1 Application and the T2 Application are the same. The Tenant alleges that the Tenant ended the tenancy early, but had paid the rent for the

month of June 2024. Despite this, the Tenant alleges that the Landlord rented the unit out to someone else in that month.

4. Because this is the Tenant's application, he bears the burden of proof on a balance of probabilities. To prove something on a balance of probabilities, one must present sufficient clear, convincing, and cogent evidence to establish that it is more likely than not that something happened or a fact is true: *FH v. McDougall*, 2008 SCC 53 (CanLII), paras 44-46.
5. In April 2024, the Tenant advised the Landlord that he wanted to end the tenancy agreement early. The term of the tenancy was to end on August 31, 2024.
6. On June 13, 2024 the Landlord emailed the Tenant proposing that she would "waive" the rent for the months of July and August 2024, but asked that the rent for June 2024 be paid. The Landlord also gave the Tenant an invoice reflecting this (DOC-3915822, pp. 1-2).
7. On July 14, 2024 JN replied to the Landlord's email, copying the Tenant, and agreeing to the Landlord's proposal. The Landlord replied the same day confirming receipt of the payment of rent for June 2024 in the amount of \$2,000.00, and stating that "... the lease is now dissolved and there are no other charges" (DOC-3915822, pp. 3-4).
8. The Tenant moved out of the unit at the end of April 2024 and moved to New York, but in June 2024 the Tenant returned to Toronto for a graduation ceremony. He went to the rental unit on June 19, 2024 and found two people in the unit, who told him that the Landlord was letting them stay there.
9. On June 20, 2024, JN emailed the Landlord requesting the return of the Tenant's rent payment for June 2024 given that the unit was rented to someone else. The Landlord replied to the email on June 21, 2024, saying that she had let a friend of her handyman stay in the unit for a few nights at no cost. She said that after receiving JN's June 20, 2024 email, she asked this person to leave the unit (DOC-3915822, pp. 6-7).
10. The Landlord's evidence was that her handyman's friend wanted to spend a night in the unit after spending the two previous nights on a streetcar. The Landlord let this person stay in the unit for free as a goodwill gesture, believing that the Tenant was in New York and not returning. She said that she regrets not asking for the Tenant's permission, and reiterated that this was an unhoused person who she let stay in the unit for two nights at no cost.
11. In making findings on an application, the LTB is mandated to ascertain the real substance of all transactions and activities relating to a rental unit or residential complex and the good faith of the participants, and in doing so may disregard the outward form of a transaction and may have regard to the pattern of activities relating to the rental unit or residential complex: s. 202, *Residential Tenancies Act*, 2006.
12. The real substance of the parties' agreement to end the tenancy, described above, was to terminate the tenancy effective June 30, 2024. The Landlord's statement in her June 14, 2024 email that the tenancy is "now dissolved" did not operate to end the tenancy as of that date, and was inconsistent with the real substance of the agreement which required payment of rent for the month of June 2024, but not July or August 2024. The agreement

to end the tenancy on June 30, 2024 is clear given the parties' agreement relative to these rent payments.

13. Despite the Landlord's benevolent intention, she was not entitled to permit another person to stay in the rental unit in June 2024 while the Tenant's tenancy was ongoing. I accept the Landlord's explanation that she let an unhoused person stay in the unit for free. The Tenant did not present sufficient clear, convincing, and cogent evidence to establish that it is more likely than not that the Landlord actually rented the unit to someone else in the month of June 2024. The Landlord's *viva voce* evidence on this point was consistent with her email from June 21, 2024.
14. Because of this, the T1 Application must be dismissed. The parties' agreement to end the tenancy on June 30, 2024 was valid and the Landlord was entitled to collect the rent for the month of June. She did not rent the unit to another person or collect money in exchange for occupancy of the unit during that month. I therefore do not find that the Landlord charged illegal rent or an illegal charge that the Tenant paid, as alleged in the T1 Application.
15. On the T2 Application the Tenant alleges that the events described above amounted to a substantial interference with the Tenant's reasonable enjoyment of the unit for all usual purposes, contrary to section 22 of the Act.
16. Section 22 of the Act uses the word "substantial" to qualify the kind of interference that is covered by the provision. This means that conduct or events that amount to mere annoyances or trivial incidents do not normally amount to a breach of section 22. This provision also uses the word "reasonable" in terms of enjoyment of the unit or complex that is covered. This means that the standard to be applied is not that of the particular tenant before the LTB on a given application, but that of the reasonable tenant in similar circumstances: see, for example, *TST-55210-14*, 2014 CanLII 58631 (ON LTB), para 32.
17. I find that the Landlord's conduct amounted to a substantial interference with the Tenant's reasonable enjoyment of the rental unit for all usual purposes. The tenancy was ongoing. By definition, the unit had not been abandoned because there were no rent arrears: see ss. 2(3), *Residential Tenancies Act, 2006*.
18. The Tenant paid the rent for June 2024 in exchange for the right to occupy the rental unit. The Landlord permitting someone else to stay in the unit eliminated that right that the Tenant paid for. On the objective standard of the reasonable tenant in similar circumstances, this was substantial, and more than a mere annoyance or trivial incident.
19. There was no evidence that the unit was occupied or otherwise unavailable for the Tenant's use and occupation before June 19, 2024, but I find the Tenant is entitled to a 100% abatement of rent for the period June 19-30, 2024, which is a total of 12 days. The *per diem* amount the Tenant is entitled to for these days is \$65.75 [\$2,000.00 x 12, divided by 365]. The total rent abatement the Tenant is entitled to is \$789.00.
20. The Tenant paid \$48.00 to file the application, and is entitled to recover this amount.

It is ordered that:

1. The total amount the Landlord shall pay the Tenant is \$837.00. This amount represents:
 - \$789.00 for a rent abatement; and
 - \$48.00 for the cost of filing the application.
2. The Landlord shall pay the Tenant the full amount owing by January 20, 2026.
3. If the Landlord does not pay the Tenant the full amount owing by January 20, 2026, the Landlord will owe interest. This will be simple interest calculated from January 21, 2026 at 4.00% annually on the balance outstanding.
4. The Tenant has the right, at any time, to collect the full amount owing or any balance outstanding under this order.

January 9, 2026
Date Issued

Mark Melchers
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.