



Order under Section 31 Residential Tenancies Act, 2006

File Number: LTB-T-066324-24

In the matter of: 238 ELLERSLIE AVE
NORTH YORK ON M2R1C4

Between: Matthew Treble Tenant

And

Sharon Susan Johnson Landlord
Alfred Skinner

Matthew Treble (the 'Tenant') applied for an order determining that Sharon Susan Johnson and Alfred Skinner (the 'Landlord'):

- entered the rental unit illegally.
- substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenant or by a member of their household.
- harassed, obstructed, coerced, threatened or interfered with the Tenant.

This application was heard by videoconference on January 5, 2026.

The Landlord's Legal Representative, David John McGhee, and the first named Landlord, attended the hearing.

As of 9:35 a.m., the Tenant was 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.

Determinations:

1. Since the Tenant did not attend the hearing to support their application, I find this application has been abandoned.

Costs

2. The Landlord's Legal Representative is seeking legal costs from the Tenant at the Board's maximum of \$700.00, for the following reasons:
 1. The Tenant failed to attend the hearing; and

2. The application is made in bad faith, it is malicious, without merit, and is an abuse of process.
3. The Landlord's Legal Representative submits that the Landlord has incurred legal fees well above the Board's limit of \$700.00. The Landlord denies all the claims as alleged by the Tenant, including that there was even a Landlord and Tenant relationship, and that the application is statute barred under s. 29 (2) of the *Residential Tenancies Act, 2006* (the 'Act').
4. The application was submitted on August 30, 2024. The Landlord and the Tenant attended an Adjudicative Case Conference ('ACC') on June 10, 2025. An ACC is now a standard practice with the LTB with tenant applications. Anything said during an ACC, including any offer to settle, is confidential and may not be used at the LTB hearing or in any other proceedings. The purpose of the ACC is a type of case management hearing. The adjudicator will help the parties resolve issues in the application and will discuss any issues about the application before a hearing is held. The adjudicator may express an opinion as to whether the application may succeed or what type of remedy might be awarded if a hearing is held. In this case, the ACC did not settle and proceeded to merits which was held on this hearing date of January 5, 2026.
5. LTB Interpretation Guideline 3 - Costs states:

A Member has the discretion to require a party, a party's agent or a party's legal representative to pay, as costs, any representation or preparation expenses of another party where **the conduct of the party, a party's agent or a party's legal representative was unreasonable**. Conduct is unreasonable if it causes undue expense or delay and includes the following:

1. Bringing a frivolous or vexatious application or motion;
2. Initiating an application or any procedure in bad faith;
3. Taking unnecessary steps in a proceeding;
4. Failing to take necessary steps, such as those required by the RTA or Rules;
5. Any misconduct at the hearing or in the proceeding;
6. Raising an issue which is irrelevant to the proceedings and continuing to pursue that issue after the Member has pointed out that it is irrelevant;
7. Asking for adjournments or delays without justification;
8. Failing to prepare adequately for the hearing;
9. Acting contemptuously toward the Member or showing a lack of respect for the process or the Board;
10. Failing to follow the directions of the Member or upsetting the orderly conduct of the hearing; and
11. Maligning another party or unreasonably slurring the character of the other party.

[Emphasis added]

6. I find it reasonable to deny the Landlord's request for costs in this particular situation. The hearing on the merits of the Tenant's application on today's date was not held. There is no evidence that the application was filed as an abuse of process or that there is any history of similar behaviour from this Tenant. Although the Tenant should have notified the Landlord if they were not intending to proceed with their application, the Tenant is a layperson and may not have known to inform the LTB that they no longer intended to pursue their application. I take note that the Tenant was represented at the ACC, however it is not known if the Tenant continued to have legal representation for the merits hearing. In my view awarding costs in these circumstances would discourage the parties from exercising their statutory rights.
7. Further, the Landlord chose to retain a legal representative to assist them in defending an application and that representative prepared a defence which resulted in the Landlord's out of pocket expenses. I can appreciate the fact that litigation is costly and that sometimes costs are incurred to prepare an adequate defence. However, I am not able to determine that these costs were occasioned by the Tenant's unreasonable conduct. They constitute costs that one would typically expect when obtaining a legal representative for litigation. As such, the request for costs is denied.

It is ordered that:

1. The Tenant's application is dismissed.

January 13, 2026
Date Issued

Paula West Oreskovich
Member, Landlord and Tenant Board

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