



Order under Section 30 Residential Tenancies Act, 2006

File Number: LTB-T-007492-24

In the matter of: 2109, 2 WESTMEATH LANE
MARKHAM ON L6B1N5

Between: Oforiwaa Pee Agyei-boakye Tenant

And

Alex and Philip Holdings Inc. Landlord

Oforiwaa Pee Agyei-boakye (the 'Tenant') applied for an order determining that Alex and Philip Holdings Inc. (the 'Landlord') failed to meet the Landlord's maintenance obligations under the *Residential Tenancies Act, 2006* (the 'Act') or failed to comply with health, safety, housing or maintenance standards.

This application was heard by videoconference on April 28, 2025. The member who presided at the hearing has resigned. The Associate Chair of the Landlord and Tenant Board has determined that the Member who heard the application is unable to issue a decision in this matter. The matter has therefore been reassigned to me on the Associate Chair's own initiative under the authority of subsection 4.4(1) of the *Statutory Powers Procedure Act*. As the reassigned adjudicator, I have in accordance with the authority of subsection 4.4(6) of the *Statutory Powers Procedure Act* elected to make a decision on the basis of the existing evidentiary record.

The Tenant, the Tenant's support, Selasi Durkenoo, the Landlord Abraham Alex, and the Landlord's representative Anju Philip attended the hearing.

Preliminary Issues

1. At the onset of the hearing the Landlord brought forward a preliminary issue. The Landlord requested that the T6 application was not amended by the Tenant with the new allegations as indicated in the previous hearing and that the application should be dismissed due to the lack the Tenant's preparation and waste of the Board's time.
2. The Tenants acknowledges they were unable to amend their application as they were unaware of the Board's procedures. However, the Tenant submits that the Landlord has the disclosure and is aware of the allegations.
3. Based on the submissions before the Board, I find the Tenant has had ample time to perfect their application and the amendments was denied. The Tenant filed the application

on February 7, 2024, was scheduled for a hearing on December 12, 2024 and adjourned to the hearing date on April 28, 2025. The hearing was scheduled approximately fourteen months after the filing date. Given the circumstances, I find that it would be unfair to allow for the amendment for the application. However, I also find that the application should not be dismissed as the application's reasons and details are clear for the Landlord to understand what the Tenant is alleging, therefore the hearing proceeded to its merits.

Determinations:

1. For the reasons that follow, I am satisfied, on the balance of probabilities, that the Landlord failed to meet the Landlord's obligations under subsection 20(1) of the Act to repair or maintain the rental unit. Therefore, the Landlord must pay the Tenant \$298.00 on or before January 24, 2026
2. The Tenancy began on January 7, 2022. It is unknown if the Tenant still resides at the rental unit.
3. The Tenant filed a T6 application alleging that the toilet in the rental unit was defective and continuously running, resulting in excessive water usage and increased water bills, and that the Landlord failed to address the issue in a timely and effective manner.

Tenant's Evidence

4. The Tenant testified that she first notified the Landlord on July 26, 2023, that the toilet was malfunctioning and running continuously without being flushed due to malfunctioning water closet.
5. The Tenant testified that despite follow-up communications, the toilet continued to run for several weeks, and no permanent repair was completed during that time.
6. The Tenant testified that she received a utility bill in or around September 2023 that was approximately \$300.00 higher than her usual monthly water charges. A copy of the utility bill was submitted into evidence as well as statement balances from previous utility bills.
7. The Tenant testified that once she informed the Landlord of the increased water bill in September 23, 2023, a contractor attended the rental unit the following day and the toilet was replaced.
8. The Tenant testified that she did not refuse access to the rental unit at any time and did not obstruct the Landlord or any contractor from completing repairs.

Landlord's Evidence

9. The Landlord acknowledged that the toilet was defective and that it was replaced on September 24, 2023.
10. The Landlord submitted that repairs were delayed because the Tenant was not always available to be present in the rental unit and that the Landlord preferred the Tenant or a representative to be present during repairs. The Landlord provided to the Board copies of

text message screenshots with the Tenant to show communication on possible dates the contractor is able to come to repair the issue.

11. The Landlord further submitted that under the tenancy agreement, the Tenant was responsible for paying utility charges, including water.
12. The Landlord testified that, as a result of the maintenance issue, the Landlord and the Tenant agreed to a reduction in the monthly rent for the following year. The Tenant, however, submitted that the rent reduction occurred in the context of a prior rent increase of approximately \$400.00 per month and that the agreed-upon rent amount reflected a negotiation arising from that increase rather than compensation for the maintenance issue.
13. For an agreement to exist, there must be a meeting of the minds between the parties as to the essential terms and purpose of the agreement. In this case, there is insufficient evidence before me to establish that the reduction in the lawful monthly rent was intended to compensate the Tenant for the increased utility costs or the maintenance issue. Accordingly, on a balance of probabilities, I find that the parties did not reach a meeting of the minds with respect to the rent reduction constituting compensation for the maintenance issue.

Analysis

14. Pursuant to section 20(1) of the Act:

A landlord is responsible for providing and maintaining a residential complex, including the rental units in it, in a good state of repair and fit for habitation and for complying with health, safety, housing and maintenance standards.

15. Based on the evidence before me, I find, on a balance of probabilities, that the Landlord failed to maintain the rental unit in a good state of repair and fit for habitation in accordance with section 20(1) of the Act in relation to the water closet.
16. I am satisfied that the Tenant informed the Landlord of the issue in on July 23, 2023. There is no dispute that the Landlord was aware of the problem well before the repair was completed on September 24, 2023.
17. As set out in the Board's Interpretation Guideline 5, it is established law that it is not sufficient to establish that there was a maintenance issue. The Board must also consider whether the Landlord's response, once informed of the issue, was timely, appropriate and effective to remedy the problem. Where this is the case, the Landlord can be said to have been in breach of their section 20 of the Act obligation to maintain or repair.
18. In this case, the Landlord did not complete a permanent repair for more than two months after being notified of the malfunctioning toilet. Given the nature of the issue and the foreseeable consequence of increased water usage, I find this delay to be unreasonable.
19. The Landlord argued that repairs were delayed because the Tenant was not always available to be present in the rental unit. I do not accept this submission.

20. Sections 26 and 27 of the Act permit a landlord to enter a rental unit on 24 hours' written notice for the purpose of carrying out repairs or maintenance. The Act does not require a tenant to be present during such entry, nor does it condition a landlord's maintenance obligation on tenant availability.
21. There was no evidence before me that the Tenant refused entry, denied access, or otherwise obstructed the Landlord's efforts to repair the toilet. The Landlord's decision to delay repairs because the Tenant was not present was therefore a matter of preference rather than legal necessity.
22. While the tenancy agreement required the Tenant to pay for utilities, the increased water charges were directly attributable to the Landlord's failure to promptly repair the defective toilet. I find that the increased water costs were a foreseeable consequence of the Landlord's breach of section 20(1) of the Act.
23. I am satisfied that the Landlord failed to maintain the rental unit in a good state of repair from July 23, 2023, until September 24, 2023.

Remedy

24. The Tenant is seeking \$2,546.31 out of pocket expenses that the Tenant incurred due the Landlord's Breach of Section 20 of the Act. The Tenant testified that this number represented the utility bills she had received in September 21, 2023 for the billing period from July 31, 2023, to August 31, 2023, and the utility bill statement she had received on November 11, 2023, for a billing period that is unknown.
25. In reviewing the evidence, the Tenant only submitted the September 21, 2023, utility bill and utility bill statements from November 11, 2023 in support of the claim for increased water costs. The evidence shows that the utility provider issues combined bills that include both water and hydro charges.
26. The Tenant provided one bill that contained a specific breakdown of water charges for the period July 31, 2023, to August 31, 2023. That bill clearly itemized the water portion of the charges and showed a significant increase during that billing period.
27. The remaining statements submitted into evidence reflected total amounts only and did not separately identify water usage as distinct from hydro consumption. As a result, it is not possible to determine from those bills what portion of the charges was attributable to water usage as opposed to hydro usage.
28. While I am satisfied on a balance of probabilities that the malfunctioning toilet caused increased water consumption over a longer period, the Board may only award compensation where the amount claimed is supported by reliable and specific evidence which is available and expected.
29. Due to the absence of a clear breakdown separating water charges from hydro charges for the November 11, 2023, bill charge, I am unable to determine the total water-related cost attributable to the Landlord's breach of section 20 of the Act.

30. Based on the only billing period for which a clear and itemized water usage breakdown was provided, I find that the Tenant has established increased water costs and find the amount of \$250.00 for the period of July 31, 2023, to August 31, 2023 appropriate.
31. Accordingly, while I accept that the Tenant likely incurred additional water costs outside of this period, I limit the compensation to \$250.00, being the portion of the claim that is supported by clear, itemized documentary evidence.
32. The Landlord shall pay \$48.00 to the Tenant for the cost of filing this application.

It is ordered that:

1. The Landlord shall pay the Tenant is \$298.00. This amount represents:
 - \$250.00 for the reasonable out-of-pocket expenses that the Tenant has incurred.
 - \$48.00 for the cost of filing the application.
2. The Landlord shall pay the Tenant the full amount owing by January 24, 2026.
3. If the Landlord does not pay the Tenant the full amount owing by January 24, 2026, the Landlord will owe interest. This will be simple interest calculated from January 25, 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 13, 2026

Date Issued

Joshua Labbe

Member, Landlord and Tenant Board

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.