



Order under Section 30 Residential Tenancies Act, 2006

Citation: Headrick v Mittal, 2026 ONLTB 2581

Date: 2026-01-14

File Number: LTB-T-061995-24

In the matter of: 1013 PARABOLICA WAY
KANATA ON K2T0P8

Between: Kurt Headrick Tenant
Sally Rowsell

And

Kartikey Mittal Landlord
Rupal Garg

When the capitalized word “Landlord” is used in this order, it refers to all persons or companies identified as a Landlord at the top of the order. When the capitalized word “Tenant” is used in this order, it refers to all persons identified as a Tenant at the top of the order.

Kurt Headrick and Sally Rowsell (the 'Tenant') applied for an order determining that Kartikey Mittal and Rupal Garg (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 September 11, 2025 and concluded on November 7, 2025.

The Landlords, the Landlord’s legal representative David Lyman, the Landlord’s witness Marcel Brascoupe and the Tenants attended the hearing.

The parties made their closing submissions in writing post hearing.

Determinations:

1. As explained below, the Tenant did not prove on a balance of probabilities the allegations contained in the application. Therefore, the application is dismissed.

Background

2. The Tenants moved into the rental property, a detached home on February 1, 2023 and moved out on December 7, 2023. The lawful rent was \$2,400.00.
3. The Tenants filed their T6 application with the LTB on August 1, 2024 alleging that radon gas was detected in the rental property, levels which were deemed to be unacceptable in accordance to Health Canada standards and that the Landlords failed to act upon these findings in a reasonable and timely manner. That they were misinformed, believing that the home was more than one year old, as it was not, that this created undue inspections and remedial work under the home warranty program. A decision was made to terminate the tenancy prior to the end of the one year lease agreement.

The Tenants evidence

4. *The Tenants rely upon a variety of documents as in the Board's record as follow:*
 - i. DOC-6344288
 - ii. DOC-6344359
 - iii. DOC-6344286
 - iv. DOC-6344292
 - v. DOC-6344448
 - vi. DOC-6799625
 - vii. DOC-6799666
5. The Tenants testified to the following:
 - That on May 14, 2023, the landlords had a home inspection of the rental property by A Buyers Choice Home Inspection.
 - That on August 1, 2023, Sally Rowsell (SR) overheard the Landlord Kartikey Mittal (KM) informing that the builder of the home that the home inspection detected radon in the property.
 - That when the Tenants requested the reporting from the radon home inspection their requests were initially ignored, that on August 2, 2023, (KM) informed the Tenants that the radon concentration was found to be 239 Bq/m³ and that they became aware the this level was in excess of the 200 Bq/m³ limit as outlined by Health Canada guideline.
 - That it was their understanding that radon concentrations are lowest in the summer, therefore it was presumed that radon concentrations would register at higher levels the rest of the year.
 - The Tenants contacted Health Canada and multiple Radon CNRPP (Canadian National Radon Proficiency Program) professionals, and were advised the health effects of those radon concentrations were equivalent to smoking 4 packs of cigarettes per day.
 - The Tenants requested that the Landlords immediately remediate the home to comply the Health Canada guideline and highlighted that the Landlords were aware of the levels of radon as early as May 14, 2023 when the initial home inspection was completed.

- The Landlords informed the Tenants on or about August 9, 2023, that they intended to conduct a 3-month test starting in September.
 - August 11, 2023, the tenants informed the Landlords that they had been staying at their other property to minimize their exposure to the radon. (SR) having a medical condition which provided greater concern for her remaining living in the rental unit.
 - The Tenants contemplated an early termination of lease but could not vacate until November 1, 2023 at the earliest, and while continuing to reside in the rental unit, they kept windows open when possible to mitigate radon exposure.
 - During this time, the Landlords maintained that the “the house is currently safe to live in and there is no health hazard” and that they would conduct the 3-month, results would then be used to support a claim for radon remediation under their new home warranty “Tarion”.
 - On August 15, 2023, (KM) informed the Tenants that in order to get accurate radon testing results the test period should be over the months of November through January, this based on what Health Canada recommends. And that they planned to conduct the test between September 2023 to February 2024.
 - The Tenants after having conducted research of Health Canada approved measurement instruments, purchased a Radon Eye Radon meter and experimented with impact of ventilating rooms and outcome on testing.
 - That after ventilating for several hours, they found that the radon on the main floor would decrease from > 200 to < 10 Bq/m³ and remain there as long as all the windows were open.
 - That they tested for radon on the main floor between August 25 and September 11, 2023 during which time the house was empty and that during this period an average radon concentration of 276 Bq/m³ was detected, which confirmed for them that the May 14, 2023 home inspection reading was not unusual, and confirmed persistent radon levels which exceeded the 200 Bq/m³ maximum safe levels over 4 months during the period of the year when radon levels should be the lowest.
 - On September 19, 2023, the Tenants sent the landlords a demand letter in which they outlined that the Landlords’ that they were in violation of the RTA, *the Act*, specifically Section 20(1) responsibility to provide and maintain a residential unit complying with health standards. Submitting that it was their position that the Landlords had refused to promptly take corrective action to reduce the radon concentrations as per the Health Canada Radon Guideline and delayed the testing process commencing September through November. And informed the Landlords that legal action would follow if remedial action was not in place by September 29, 2023.
6. The Tenants submitted that the conditions created a situation where they were forced to mitigate possible exposure and resided in part at their secondary property hours away, incurred associated travel costs and loss of income in connection to a home run business. That the Landlords continued to breach their responsibilities under the RTA and to comply with all health guidelines, creating an ongoing health and safety risk.
 7. In respect of a health risks, it was further submitted that the Tenants requested that (SR) be present in the rental property when any work was being conducted as she was sensitive to a variety of materials. That she needed to be present to ensure that the products used were not going to contribute to her sensitivity and make her sick.

8. When asked if the Tenant (SR) provided any medical to support a disability the Tenant submitted that none was provide, however that she made it clear to the Landlords as to her levels of tolerance. That she was not accommodated for her disability other than being able to be present during repairs.
9. The Landlords commenced the 3-month radon testing on September 23, 2022.
10. Further, that there is no safe level of radon. It is the choice of each homeowner to decide what level of radon exposure they are willing to accept, on this basis, ultimately the Tenants decided to move out on agreement, although expressed that it would have been their preference to continue to live at the rental property if the situation was different.
11. The Tenants raised some other issues in their submissions, one as relating to an unlawful demand for a rent increase. As this application is about maintenance and the parties terminated the tenancy early pursuant to an agreement, I make no findings on these submissions.

Landlords' evidence

12. *The Landlords rely upon a variety of documents as in the Board's record as follow:*

- i. DOC-6317724*
- ii. DOC-6317738*
- iii. DOC-6807695*

13. The Landlords' do not dispute that the rental property was newly constructed, to access the home warranty program under Tarion, they had the rental property inspected on or about May 14, 2023 by A Buyers Choice Home Inspection. That among the noted 52 deficiencies identified, they became aware that the inspection detected radon concentration measure of 239 Bq/m³.
14. The second named Landlord Rupal Garg (RG) submitted that the Tenants were not keen on permitting entry for the home builder's contractors to rectify the deficiencies, that they received pushback when attempting to involve them on addressing the deficiencies. That while radon was detected, testing was completed by an employee that was not certified nor qualified to conduct the test and that the result was "short term" in nature and therefore could not be relied upon.
15. That on June 3, 2023 they were informed that (SR) had a disability and that she needed to be present for all assessments and work being conducted. That this was accepted by them, despite that no specifics were provided to them and that they acted in good faith. That work was delayed until August 1, 2023 per the Tenants' requests and on the basis of the accommodation being requested.
16. That the Tenants requested that the Landlords consider the commencement of radon testing sooner, failing which that a request was made to terminate the lease earlier.

17. At this time the Landlords reached out to the home builder, Tarion, Health Canada and radon mitigation companies to ask about the safety of the home and next steps to be considered and that they were advised that the home is habitable and that a long term 3-month test should be conducted in the months when heat is turned on. And where tests results are conclusive of elevated levels, a pipe system installation as a means of remediation would be installed by the home builder under the warranty program.
18. The Landlords commenced the three-month radon testing protocol. Barrhaven Home Inspectors Inc. rendered the report findings of the long-term radon testing results on December 30, 2023, as evidenced on page 77 of DOC-6317724. The report shows that for the period of September 25, 2023 to December 30, 2023 the average concentration of radon was 210.4 Bq/m³, and that Health Canada recommended that all radon levels be maintained below 200 Bq/m³. On this basis the Landlord commenced remedial work through the home builder.
19. By the time the results of the test were rendered, the parties had agreed to terminate the tenancy agreement.

The Landlord's witness testimony

20. The Landlord's expert witness, owner of MB Radon Solutions, Marcel Brascoupe (MB) is one of the founding members of the Canadian Association of Radon Scientists and Technologists (**CARST**) in Canada. He was originally certified by the National Radon Proficiency Program (**NEHA-NRPP**) in the United States, conducts radon training courses across Canada and has played a supporting role in the development of Health Canada's National Radon Program.
21. MB testified that because radon comes from the soil, there is usually some radon found in every home, that it depends on the concentration levels whether remediation is necessary and that various factors will impact fluctuating levels of radon present throughout the time in the year and results may be impacted by area of home where the test is being conducted.
22. Per guideline it was confirmed that Health Canada recommends taking action if the radon levels in the home exceed 200 becquerels per cubic metre (200 Bq/m³). That radon gas is a long-term health risk and not an immediate health risk like other pollutants. Should the results of the long-term measurements indicate high radon concentration, the remediation timeframe recommended by Health Canada is two years where the measurement of radon is found to be in the range of 200 Bq/m³ to 600 Bq/m³ and within one year where radon counts are over 600 Bq/m³.
23. MB confirmed that where radon levels are detected that warrant remediation, remediation is not immediate in most cases pursuant Health Canada guidelines and that there are various radon reduction systems that can be considered. And that it is personal decision as to what level of exposure homeowners are willing to bare when acting on the involvement of remediation experts. Where measurements show a concentration of 200 Bq/m³ or lower that it would be unethical to recommend remediation while there are individuals that are not comfortable with the 200 Bq/m³ level threshold.

24. The Landlord seeks a dismissal of the application, they submit that they have not failed to meet their obligation under 20(1) of the Act.

Analysis

25. I am not satisfied that the Landlord failed to meet their obligations under subsection 20(1) of the Act to repair or maintain the rental unit and did not fail to comply with health, safety or housing maintenance standards for the reasons that follow.
26. In *Onyskiw v. CJM Property Management Ltd.*, [2016 ONCA 477](#), the Court of Appeal held that the LTB should take a contextual approach and consider the entirety of the factual situation in determining whether there was a breach of the landlord's maintenance obligations, including whether the landlord responded to the maintenance issue reasonably in the circumstances. The court rejected the submission that a landlord is automatically in breach of its maintenance obligation as soon as an interruption in service occurs.
27. In this case the Landlords became aware of the potential issue in May 2023 and followed up on the issue by seeking guidance from the home builder, Tarion, City of Ottawa, Health Canada and radon mitigation companies. The guidance was to commence a long-term testing to be conducted over a 3-month period when the home is being heated.
28. The Tenants have adduced the results of testing that was shorter than three months and as completed during non-heating season conducted August 25 to September 11 inclusive averaging 276 Bq/m³. As evidenced, Health Canada's website confirms that short-term measurements should never be used to determine if the radon concentration in a home exceeds the guideline levels. Health Canada recommends that a long-term measurement should be conducted. And while the Tenants suggest the Landlords have an obligation to act upon the issue immediately, the detection of radon is not an issue that requires immediate remediation per Health Canada Guidelines. And as noted by the Tenants, as the gas is not smelled or seen, the Landlords did not have any knowledge of its existence until such time that a "new" home inspection took place, one that was initiated by them to ensure the home was of good standard.
29. Radon gas poses long-term health risk and where long-term measurements indicate high radon concentration, the remediation timeframe recommended by Health Canada is one to two years, depending on the concentration of radon. Here, the Landlords commenced the long-term testing in September 2023 and on the basis of the results, completed remediation of the property through the installation of the active sub-slab depressurization system. As outlined in the Landlord's closing arguments, this was completed within an 8-month period which was well within the recommended 2 year time frame of the Health Canada recommendation, the testing rendering the result of 210.4 Bq/m³ as the average.
30. The Tenants suggest the Landlords could have commenced the testing period sometime in August 2023. However, the Landlords followed the recommended testing protocols, given the potential for increased levels of radon detection in the months where heat is used. I am satisfied that the Landlords acted upon their responsibility to

adequately investigate the matter just as soon as it was possible given the outlined parameters and issue at hand.

31. In the case before me, I understand the decision to move out, given individual tolerance for risk and the second named Tenant (SR) being especially sensitive to the possible radon exposure given a preexisting health condition. Although the details of which were not entirely clear. In closing, the Tenant (SR) suggested, that if it were that they continued to reside in the rental unit instead of having vacated that the Landlords would have incurred costs in respect of the radon remediation work and would have “had to accommodate” for her disability.

32. *LTB Human Rights Interpretation Guideline 17* outlines:

Subsection 2(1) of the Code guarantees the right to equal treatment with respect to the occupancy of accommodation, without discrimination because of, among other grounds, “disability”.

Subsection 10(1) of the Code provides a broad definition of “disability”, Issues relating to any of the grounds set out in subsection 2(1) of the Code may be raised during Board hearings. Subsection 2(1) of the Code provides that everyone has the right to equal treatment with respect to housing, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed (religion), sex (including pregnancy, gender identity), sexual orientation, age, marital status, family status, disability, or the receipt of public assistance.

"Disability" is defined by subsection 10(1) to include both physical conditions and mental disorders.

The tenant must provide sufficient information to establish that they are covered by one or more of the categories set out in subsection 2(1) the Code, such as disability.

Sometimes this will not be difficult for the tenant to establish because the disability is not in dispute. In other cases, the tenant may need to submit evidence, such as a letter from a doctor or other medical forms, to establish that they have a disability as defined in the Code.

33. In the present case, it can not be said that the Landlords failed to accommodate (SR). If a tenant wants accommodation under the Code, the tenant has a duty to provide the landlord with sufficient information about their needs so that the landlord can determine possible accommodation. Here, there was no specifics rendered to support the request for accommodation(s) thus the Landlords acted in good faith when accepting the restrictions as outlined by the Tenant.
34. Ultimately, the Tenants vacated on December 7, 2023, this prior to the rendering of the Landlords' long-term radon test results. I surmise, among other factors, the decision to move was guided in part by the short-term testing results as conducted by the Tenants and by the home inspector, despite Health Canada guidance and recommendation of long-term testing protocols and result reliability.

35. Based on the foregoing reasons, the Tenants did not prove on a balance of probabilities the allegations contained in the application. Therefore, the application must be dismissed.

36. This order contains all of the reasons for the decision within it. No further reasons shall be issued.

It is ordered that:

1. The Tenants' application is dismissed.

January 14, 2026
Date Issued

Alicia Johnson
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.