



Order under Section 89 Residential Tenancies Act, 2006

Citation: Tong v Benchimol, 2026 ONLTB 6358

Date: 2026-01-21

File Number: LTB-L-056486-24

In the matter of: 9 SABLE RD
THORNHILL ON L4J0K1

Between: Tracy Tong Landlord

And

Dalia Benchimol Former Tenant

Tracy Tong (the 'Landlord') applied for an order requiring Dalia Benchimol (the 'Former Tenant') to pay the Landlord's reasonable out-of-pocket costs that the Landlord incurred or will incur to repair or replace undue damage to property. The damage was caused wilfully or negligently by the Former Tenant, another occupant of the rental unit or someone the Former Tenant permitted in the residential complex.

This application was heard by videoconference on January 12, 2026. The Landlord and the Tenant, represented by Dan McIntyre, attended the hearing.

Determinations:

Preliminary Issues:

Post-hearing Submissions

1. After the hearing concluded, the Former Tenant submitted unsolicited post-hearing submissions. No explanation was provided for why the Submissions were not filed on time. In the absence of such reasoning, and in fairness to the Landlord, I have not considered any of the post-hearing submissions in my determination.

Application Amendments

2. The Landlord seeks to amend their L10 application to increase the claim from \$13,575.78 to \$17,074.00, which represents increased costs for the damages claimed and includes HST. The amended application was served via e-mail to the Former Tenant on June 25, 2025, pursuant to a Board endorsement consenting to the Landlord's request for alternate service.

3. When I consider the Board's Rule 15, I am satisfied that the amendment was made in good faith and necessary, and that the Tenant was not unduly prejudiced by the Landlord's request.
4. Therefore, I agreed to amend the Landlord's application to \$17,074.00.

L10 Application

5. As explained below, the Landlord proved some of the allegations contained in the application on a balance of probabilities. Therefore, the Former Tenant shall pay to the Landlord \$1,583.65.
6. I am satisfied that the Landlord served the Former Tenant with the application and Notice of Hearing at least 30 days before the hearing in accordance with Rule 3.3 of the LTB's Rules of Procedure.
7. I am satisfied that the Landlord served the Former Tenant with the application and Notice of Hearing using a method permitted in subsection 191(1.0.1) of the *Residential Tenancies Act, 2006* (the 'Act') and Rule 3.3 of the LTB's Rules of Procedure.
8. The Former Tenant was served by e-mail, pursuant to a Board endorsement, with a copy of the application.
9. The Former Tenant vacated the rental unit on June 30, 2024.
10. The application was filed within one year after the Former Tenant ceased to be in possession of the rental unit.
8. The Former Tenant, another occupant of the rental unit or a person whom the Former Tenant permitted in the residential complex wilfully or negligently caused undue damage to the rental unit or residential complex.
9. The Landlord claims the following replacement costs (inclusive of HST):
 - Refrigerator \$3,041.96
 - Stove \$1,523.24
 - Carpeting \$8,124.70
10. The Landlord also claims the following repair costs (inclusive of HST):
 - Walls and doors \$565.00
 - Backyard lawn \$3,254.40
 - Repair to kitchen backsplash \$565.00

Applicable Law

11. Subsection 89(1) of the Act, says:

"A landlord may apply to the Board for an order requiring a tenant to pay reasonable costs that the landlord has incurred or will incur for the repair of or, **where repairing is not reasonable, the replacement of damaged property,**

if the tenant, another occupant of the rental unit or a person whom the tenant permits in the residential complex wilfully or negligently causes undue damage to the rental unit or the residential complex and the tenant is in possession of the rental unit.”

[Emphasis added]

12. This provision means that to succeed on an application like this a landlord must establish:

- There was property damage to the rental unit or residential complex;
- The damage is “undue” meaning that it is not normal wear and tear and it is not insignificant; and
- The damage was a result of wilful or negligent conduct.

Refrigerator

13. The Landlord submits that the refrigerator was damaged. Specifically, the interior frame was cracked along the bottom, the door was dented, and the seals surrounding the fridge door were torn in some areas. Two of the cubby’s, which would sit in the door, were badly cracked. The Landlord stated that they did not investigate whether the refrigerator could be repaired.
14. The difficulty with the Landlord’s claim for the refrigerator is that the wording of s. 89(1) is such that the Landlord must lead evidence in support of the proposition that the refrigerator could not reasonably be repaired before the Board can award the replacement cost. As the Landlord made no efforts to determine whether the refrigerator could have been repaired or whether the cost of repairing the fridge would be unreasonable, the Board cannot order the Former Tenant to pay any portion of the replacement cost. No order shall issue.

Oven

15. The Landlord also claims replacement cost for the oven. The bottom of the oven had damage which the Landlord consulted with the manufacturer about. The manufacturer’s opinion was that it was likely due to using aluminum foil to line the bottom of the stove which then fused the foil to the bottom plate. The manufacturer also advised that the cost of the part would be significantly higher than the cost of replacing the fridge, so the Landlord’s replaced the stove at a cost of \$1,523.24. A photo of the stove was submitted into evidence and shows the bottom of the oven with a burned appearance. The Landlord also advised that the stove had a sticker affixed to it which clearly advised against this practice.
16. Based on the Landlord’s evidence, I am satisfied that the Former Tenant negligently damaged the stove. In my view, the Former Tenant knew or ought to have known not to place anything underneath the heating elements at the bottom of the stove particularly when there is a manufacturer’s warning against doing so.

17. The Landlord states that the replacement cost of the same model of stove is \$1,523.24. A copy of the online listing for the model showing the costs was submitted into evidence. The stove had been brand new when the tenancy began eight years earlier.
18. Pursuant to [Ontario Regulation 516/06](#) the useful life of a stove is 15 years, rather than the ten years I stated during the hearing. Therefore, the stove should have had 7 years of useful life remaining. Therefore, I find that the Former Tenant owes the Landlord \$710.85 ($\$1,523.24/15 \times 7$).

Carpeting

19. The Landlord claims that the carpeting also had to be replaced. The Landlord provided photos showing significant stains in many areas. The Landlord also said that there were areas that had evidence of stains which went right to the plywood underfloor, and the flooring installer even asked if the Former Tenant had pets. The Landlord attempted to clean the carpeting using a commercial rug cleaner, but the stains would not come out, so replacement was necessary. The Landlord's evidence was that the carpeting had been installed in 2016.
20. Given the Landlord's testimony and photos in evidence, I agree that the damage to the carpeting was beyond normal wear and tear, particularly given that the flooring installer believed there must have been pets in the rental unit based on the state of the plywood. A reasonable tenant knows, or ought to know, that some degree of care must be used not to spill on carpets and that spills must be cleaned up immediately to avoid permanent damage or discolouration.
21. The Former Tenant submitted photos of the rental unit to demonstrate that the rental unit was kept in a clean and habitable state. The concern with these photos is that they were very dated having been taken between 2018 and 2020. Given the dated nature of the photos, I find that they have no probative value. The Former Tenant also submitted a video which was taken in the context of an earlier flood. Again, I find this evidence of little probative value as the flood occurred several years earlier.
22. The Former Tenant submits that it was the flooding which caused the damage to the carpeting, at least to the carpeting in the basement. The Landlord says that the wet carpeting was replaced after the flood, which was disputed by the Former Tenant. Regardless, I do not find that this evidence assists me in determining whether the Former Tenant, or her guests or occupants, wilfully or negligently damaged the carpet. Even if there had been a flood, the Former Tenant did not sufficiently demonstrate any correlation between the damage caused by the flood and the stains as evidenced in the Landlord's photos.
23. The Landlord did not replace the carpeting with carpet, but rather replaced it with hardwood flooring. As such, the Landlord stated she used a two-thirds calculation of the cost to estimate the approximate price of carpeting versus the flooring which was installed. The Landlord also provided the original cost of the carpeting which was placed in the home. It shows the Landlord paid \$1,505.16 at the time of purchase of the rental unit eight years earlier in 2016.

24. The Landlord submitted the actual cost of replacing the installation of new hardwood flooring. The total cost for the flooring, which included the removal of the carpeting, was \$6,750.00.
25. The Landlord also claims for the cost of all quarter round to the entire home of \$1,000.00 but did not lead any evidence to support why the quarter round needed to be replaced. Without evidence to explain why the quarter round had to be replaced, nor evidence which to differentiate the quarter round replaced to carpeted areas versus uncarpeted areas, I am unable to make a determination that this was a necessary repair arising from the Former Tenant's wilfulness or negligence. No order for quarter round will issue.
26. The concern with the \$7,190.00 ('figure') claim for carpeting, as stated in the Landlord's application, is that this figure is greater than the amount the Landlord actually paid to upgrade the flooring to hardwood. Further, this figure was arrived at based on an internet search. The Landlord did not testify about how this search was conducted or what parameters were selected. Rather, the evidence points to a blog which estimates costs to replace 1050 square feet of carpeting ranges from \$3,030.00 through \$11,345.00.
27. I do not find this evidence is sufficient to demonstrate the actual cost to replace the carpeting in the rental unit. Although the Landlord used a median between the lowest and highest costs, the fact remains that the range was generated by a website and not by verifiable factors such as a quote from a flooring installer and is in fact greater than what the Landlord spent to upgrade the flooring.
28. Given this, I am not inclined to use the cost supplied by the Landlord to replace the flooring. As I find that the carpeting was damaged beyond what is ordinary wear and tear, I do find that the Landlord is entitled to some remedy. However, I find it is appropriate to use the original cost of the flooring adjusted for inflation. This cost I estimate to be \$1,864.00¹. Again, referring to O.Reg. 516/06, the useful life of carpeting is ten years, leaving two years remaining. Given this, I find that the Former Tenant shall pay to the Landlord \$372.80 ($\$1,864.00/10 \times 2$).

Back Yard

29. The Landlord seeks compensation for the backyard stating that it was full of weeds. However, the Landlord agrees that there was no separate, severable contract for the Former Tenant to maintain the yard.
30. I am not persuaded that the Former Tenant wilfully or negligently damaged the back yard. Weeds grow and the Former Tenant was not under any contractual duty to keep the grass free from weeds. No order shall issue.

Damage to the Walls, Door & Backsplash

31. The Landlord claims that they paid a contractor \$1,130.00 to fix damage to the backsplash and to a door and a wall. The Landlord did not provide any evidence of the payments made nor an invoice for these repairs.

¹ [Inflation Calculator - Bank of Canada](#)

Peel and Stick Tiles

32. The Former Tenant had placed peel and stick style tiles ('tiles') to the backsplash area behind the sink. The Landlord testified that when she inspected the property, she told the Tenant these tiles ought to be removed.
33. After taking possession, the paint and drywall underneath the tiled area was damaged during the removal process. Photos show an area approximately 8 x 2 ft where paint is missing from the backsplash area and a couple of small areas where the paper coating of the drywall was damaged.
34. I find that the Former Tenant negligently caused damage to the backsplash and that a reasonable Tenant knows, or ought to know, that removing these tiles, by their very nature, would have strong adhesive which would likely cause damage to the surface underneath.

Hole in Door/Wall

35. The Landlord submitted photos of a fist-sized hole in a wall in an upper floor bedroom and a door.
36. I accept that the wall and door were damaged, and that this was undue damage and not consistent with ordinary wear and tear. A reasonable tenant knows, or ought to know, that it is not appropriate to leave holes in walls or doors.
37. The Former Tenant states that she did not believe that she caused this damage and that she had affected repairs to the rental unit before she left. However, the Former Tenant could not offer a plausible explanation as to how these areas were discovered by the Landlord and subsequently repaired by the Landlord.
38. However, the Landlord did not provide any evidence, beyond her oral testimony, which the Board would expect in these circumstances such as an invoice or proof of payment. Nor did the Landlord tender evidence to suggest she got other quotes which may have been more cost-effective. In my estimation, \$1,130.00 to repair two holes and patch and repaint the backsplash is unreasonable. I find \$500.00 for the repairs is appropriate. The backsplash, in my view, needed very little correction as it was primarily scraping loose paint, applying a thin coat of drywall compound to a few small areas, and repainting. If the door could not be repaired, the average interior door is less than \$100.00 to replace but can be as little as \$20.00. The Former Tenant shall pay to the Landlord \$500.00.
39. The Former Tenant also submits that the Landlord failed to mitigate their damages pursuant to s.16 of the Act. They state that the Landlord had been to the property several weeks before the Former Tenant moved out and should have told the Former Tenant at that time that she needed to remove the backsplash tiles and repair the wall and door, or at the very least, done a move-out inspection with the Former Tenant advising them of necessary repairs.
40. There is no requirement in the Act that the Landlord must conduct a move-out inspection or advise a tenant to repair damage to the rental unit. Rather, the responsibility for maintaining the rental unit is entirely the Landlord's as found in s. 20 of the Act.

Further, s. 34 contemplates that a tenant is responsible for repair caused by themselves or their occupants or guests.

41. The Former Tenant also points to a “pattern of behaviour” and referred me to s. 202 of the Act, which states: “(1) In making findings on an application, the Board shall ascertain the real substance of all transactions and activities relating to a residential complex or a rental unit and the good faith of the participants and in doing so, (a) may disregard the outward form of a transaction or the separate corporate existence of participants; and (b) may have regard to the pattern of activities relating to the residential complex or the rental unit.”
42. Typically, s. 202 of the Act is reviewed in context of the good faith analysis where a tenant is alleging a landlord gave a notice of termination, such as an N12, in bad faith. It is not clear to me how this section of the Act relates to the matter at hand. The Former Tenant submits that the Landlord was “absentee”. Again, I do not see how this would be applicable to the situation at hand unless the Tenant was alleging that the Landlord purposefully contrived the damages claimed. However, there was credible evidence of undue damage, as evidenced by the photos of the rental unit.
43. Lastly, the Former Tenant pointed me to several orders of the Board. I note none of these are binding on me and are distinguishable on their facts.
44. This order contains all of the reasons within it. No further reasons shall issue.

It is ordered that:

1. The Former Tenant shall pay to the Landlord \$1,583.65, which represents the reasonable costs the Landlord incurred as a result of the damage.
2. The Former Tenant shall pay to the Landlord \$186.00 for the cost of filing the application.
3. The total amount the Former Tenant owes the Landlord is \$1,769.65*. See Schedule 1 for the calculation of the amount owing.
4. If the Former Tenant does not pay the Landlord the full amount owing on or before February 1, 2026, the Former Tenant will start to owe interest. This will be simple interest calculated from February 2, 2026 at 4.00% annually on the balance outstanding.

January 21, 2026
Date Issued

Jane Dean
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.

* Refer to the attached Summary of Calculations.

Schedule 1
SUMMARY OF CALCULATIONS

Amount the Former Tenant must pay the Landlord:

Damage Costs	\$1,583.65
Application Filing Fee	\$186.00
Total amount owing to the Landlord	\$1,769.65