



Order under Section 31 Residential Tenancies Act, 2006

Citation: Montague v Mahajan, 2025 ONLTB 74276

Date: 2026-01-28

File Number: LTB-T-044021-23

In the matter of: 204 BOTTRELL ST
BOWMANVILLE ON L1C5M9

Between: Tracy Montague Tenant

And

Ashish Mahajan Landlord

Tracy Montague (the 'Tenant') applied for an order determining that Ashish Mahajan (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.
- withheld or interfered with their vital services or care services and meals in a care home.

This application was heard by videoconference on September 18, 2025.

The Landlord, the Landlord's representative, Shikah Kapoor, the Tenant and the Tenant's representative, Shelby Whittick, attended the hearing.

Determinations:

Preliminary Issue

Application is amended

1. The Tenant requested that her application be amended in accordance with the amended application file on March 28, 2025. I was satisfied the Tenant had served the Landlord's representative with a copy of the amended application. The Landlord's representative did not oppose the request to amend the application.
2. It was also undisputed that there is no Tenant named Moemo and that Moemo should be removed as a Tenant on the application. As such, the application is amended.

The application

3. As explained below, the Tenant proved some of the allegations contained in the application on a balance of probabilities. Therefore, the Landlord must pay the Tenant \$148.00, as well as provide the Tenant with copies of all water bills and hot water tank rental bills from the commencement of the tenancy up to and including the date of this order.
4. The Tenant moved into the unit on February 1, 2022 with her two children.
5. The rental unit is a two-storey, four-bedroom home. The Tenant has exclusive use of the driveway, garage and backyard. The basement is not included in the rental unit.
6. In or around November, 2022, the Landlord advised the Tenant that they had retained AGM Construction to construct a basement apartment in the residential property with its own separate entrance. The construction started on February 8, 2023.

Illegal entry

7. The Tenant testified that in November 2022, the Landlord advised her that he would be constructing a basement apartment in the residential complex. Given that there was no outside access to the basement, the Landlord advised her that the contractor and his workers would require access to the basement through the rental unit until a separate basement entrance from the backyard was installed. The contractor estimated it would take four to five days to complete the outside basement entrance. It is undisputed that it took four days to complete the basement entrance.
8. The Tenant stated the contractor installed a lockbox on her front door, containing a key to both the rental unit and the inside basement entrance, to allow access into the basement by the construction crew. She said that she did not receive any notices of entry by trades people and that it was uncomfortable not knowing when people would let themselves in to the unit. She said one Saturday her daughter went downstairs in her pyjamas and was shocked to find a construction worker in the house. She said that the incident traumatized her daughter. The Tenant stated that there was also another incident in June 2023 when a construction worker walked through the interior garage door and into the rental unit.
9. The Tenant did not provide specific dates and times of the illegal entries but stated that they started at the beginning of February and continued until the lock box was removed from the front door at the end of March, 2023. She said the entries usually happened every other day, including Saturdays, and that having people let themselves into the home made her feel very uncomfortable and that she and her children did not feel safe in their own home.
10. The Tenant produced an email to the Landlord's property manager dated February 8, 2023 [Doc 5356026, page 56] which reads, in part:

This morning a construction worker just let himself in the house without knocking.
It scared us as we were still sleeping.

I've asked for a plan, for information so I could know what to expect, however you
have not responded.

Therefore, I'll come up with a plan.

The house will be open to the construction crews from 9am to 5pm, Monday to Friday. No one is allowed in the house without someone from my family being here.

This will be available from Feb. 8-17, 2023

11. Based on the evidence, I am not satisfied that the Landlord entered the unit illegally. While the Tenant had expressed concern to the Landlord about the contractor and their crew having access her home via a lockbox, the evidence supports that the Landlord advised the Tenant that access to the rental unit would be required for approximately four to five days in order to install a separate basement entrance and that the Tenant knew when the construction was scheduled to commence. I am satisfied that this constitutes more than twenty-four hours' notice of entry. It was only after a construction worker allegedly entered the unit on February 8, 2023 without knocking that the Tenant set strict parameters for access to the unit, being between 9:00 a.m. and 5:00 p.m., Monday to Friday, from February 8 to 17, 2023 [Doc 5356026, page 56]. There is no documentary evidence to support the Tenant's testimony that construction crews did not adhere to the parameters set by the Tenant.
12. In my view, it is an abuse of process to confirm dates and times the construction crew could enter the unit, then subsequently claim damages because the Landlord did not provide notices of entry for each entry during that timespan.
13. Furthermore, the Tenant admitted she did not have specific dates and times of the entries into the unit. There is insufficient evidence, such as a written complaint to the Landlord or a witness, to support the Tenant's allegations that a construction worker entered the unit on a Saturday when her daughter was in her pyjamas and on another day in June 2023.
14. Based on the evidence before me, I do not find that the Landlord entered the unit illegally. This portion of the application is dismissed.

Substantial Interference

15. The Tenant claims that the Landlord substantially interfered with her reasonable enjoyment of the rental unit due to the construction and for the reasons described below and makes a claim pursuant to section 29(1) of the *Residential Tenancies Act, 2006* (the "Act") in relation to same.
16. Claims related to substantial interference from the Landlord performing maintenance, repairs or capital improvements in the residential complex are governed by section 8 of *Ontario Regulation 516/06* (the "Regulations"). I am satisfied that the installation of a separate living unit in the basement falls under this category. As such, I must apply section 8 of the Regulations to this application.
17. Section 8 limits the ability of tenants to obtain abatements of rent when a landlord undertakes improvements or repairs. The policy rationale for this appears to be ensuring landlords are not deterred from maintaining or improving their property. Subsection 8(2) states:

8(2) *For the purposes of section 22, paragraph 3 of subsection 29(1) and subsection 31 (1) of the Act, this section applies to the Board in making a determination,*

(a) as to whether a landlord, superintendent or agent of a landlord, in carrying out work in a rental unit or residential complex, substantially interfered with the reasonable enjoyment of the unit or complex for all usual purposes by a tenant or former tenant, or by a member of the household of a tenant or former tenant; and

(b) whether an abatement of rent is justified in the circumstances.

18. This means that before the Board can declare interferences such as those experienced by the Tenant to be “substantial interference with reasonable enjoyment”, the provisions of section 8 must first be considered.
19. Section 8 limits a tenant’s ability to succeed on an application such as this in three different ways. First, subsection 8(3) essentially changes the test of what “substantial interference with reasonable enjoyment” means. Second, subsection 8(4) says that even when a tenant passes the threshold test set out in subsection 8(3), the tenant is barred from being awarded an abatement of the rent (although not from other remedies) if the landlord has met a number of requirements concerning how the work was done. Third, even where the tenant establishes eligibility for abatement, the remaining provisions of section 8 would normally substantially limit the amount of the abatement available.
20. First, I must analyse whether these alleged interferences are considered substantial after applying subsection 8(3), which reads as follows:

8 (3) In making a determination described in subsection (2),

(a) the Board shall consider the effect of the carrying out of the work on the use of the rental unit or residential complex by the tenant or former tenant, and by members of the household of the tenant or former tenant; and

(b) the Board shall not determine that an interference was substantial unless the carrying out of the work constituted an interference that was unreasonable in the circumstances with the use and enjoyment of the rental unit or residential complex by the tenant or former tenant, or by a member of the household of the tenant or former tenant. [Emphasis added.]

21. Subsection 8(3) creates a two-part test that is both subjective and objective.
22. Paragraph 8(3)(a) requires the Board to look at the individual circumstances of the Tenant and the impact on them. So the impacts experienced by the Tenant are important but pursuant to s. 8(3)(b), the Board is barred from making a finding that the Landlord substantially interfered with the Tenant’s reasonable enjoyment regardless of the severity of those impacts

unless the Tenant leads sufficient evidence to establish unreasonableness with respect to the work being done.

23. For the reasons below, I find that pursuant to section 8(3) of the Regulations, the construction of the basement unit was reasonable in the circumstances and therefore did not constitute a substantial interference.
24. I find, however, that giving the Tenant an N5 notice to terminate the tenancy for unpaid utilities while refusing to provide her with copies of the utility bills to substantiate those unpaid charges does constitute substantial interference with the Tenant's use and enjoyment of the rental unit.

Construction

25. The Tenant stated that the construction caused her and her family to be miserable for months. She said that the construction crew completely ignored the fact that she worked from home and had music blaring all day. She said the construction workers used her bathroom and kitchen microwave, ignored her complaints, were rude to her and yelled at her children. She said that even before the construction started the Landlord used her living room on December 30, 2022 to meet with the contractor and expected her to play hostess which was totally inappropriate and disrespectful to her.
26. The Tenant stated that the contractor took over the garage, placed a construction pod on the driveway and rendered her backyard unusable for five months. She stated that changes made to the duct work in the basement also resulted in the air-conditioning not working, causing the temperature to rise to 85 degrees Fahrenheit, and that it took the Landlord five to six weeks to fix the air-conditioning.
27. Lastly, the Tenant stated that she is responsible for paying the utilities (i.e. hydro, gas and water) and that the construction work resulted in her paying increased utilities. She said construction workers left windows and doors open in the basement, resulting in higher costs for heating and cooling. The Tenant's position is that she is now paying to heat and cool the basement even though it is not included in the rental unit. She said the Landlord should reimburse her for the increased costs for the period January 2023 to July 2023.
28. The Tenant produced an email from the Landlord's property manager which she said confirms that the Landlord agreed to pay forty per cent of utilities for the basement [Doc 5356026, page 73]. She also produced an email from the property manager [Doc 5356026, page 88] confirming that on July 4, 2023, the Landlord's property manager advised her that she could deduct \$135.00 from rent for August 2023 for the increased utilities.
29. The Tenant produced a chart of Enbridge gas bills she received for the period January 2023 to July 2023, together with copies of those bills [Doc 5356026, pages 100 to 120]. She states that the Landlord should reimburse her \$465.13 representing forty per cent of those gas bills.
30. The Tenant produced a chart of hydro bills she received for the period January 2023 to July 2023, together with copies of those bills [Doc 5356026, pages 122 to 140]. She states the Landlord should reimburse her \$383.97 representing forty per cent of the hydro bills.

31. With respect to the behaviour of the construction workers, the Landlord stated that the Tenant never complained to him that they were using her kitchen, blaring music, being rude or yelling at her children.
32. With respect to the December 20, 2022 meeting in the Tenant's unit, the Landlord stated that the Tenant allowed the Landlord and his contractor into the unit so that they could inspect the basement. He said that after the inspection, they had a brief discussion (i.e. ten minutes) in the Tenant's living room because the weather was bad outside but denied that he asked the Tenant for anything or expected her to act as a hostess.
33. With respect to the driveway, the Landlord did not dispute that the contractor placed a pod on the Tenant's driveway for five days during construction of the outside basement entrance. However, he produced a text message to the Tenant dated March 19, 2023 [Doc 5334587, pages 7-9] confirming that during the time the pod was placed on the driveway, the Tenant was advised that she could request temporary on-street parking from the city, that the contractor would pay any parking tickets or costs the Tenant incurred for parking on the street and that the pod would be only be on the driveway for five days.
34. The Landlord denies that the contractor took over the Tenant's garage. He produced an email message to the Tenant dated February 7, 2023 [Doc 5334587, page 7] confirming that the Pod was to be used for storage of building materials as opposed to the garage.
35. With respect to the backyard, the Tenant admitted that she only used the backyard for her pets. While it is undisputed that the construction crew were accessing the basement through the new outside entrance located in the backyard, the Tenant did not produce any documentary evidence, such as photographs, or witnesses to confirm that she could not use of the backyard during the construction process.
36. The Landlord stated that the air-conditioning was working but admitted that there was a part of the upstairs of the home that was not being cooled properly. He said the issue was resolved by installation of an additional vent in the upstairs of the Tenant's unit but that the Tenant was responsible for the delay because she initially refused to allow the Landlord's contractor entry to the rental unit to install the vent. The Landlord produced an email dated June 1, 2023 from his contractor confirming that the Tenant refused to allow access to the contractors into her unit. [Doc 5334587, page 10].
37. The Landlord stated that the air-conditioner and the furnace are leased and that the lessor sent a technician to investigate the problem. The Landlord stated that the technician reported that the air-conditioning was working properly.
38. With respect to the Tenant's claim that her utility bills increased because of the construction, the Landlord advised that the basement always had heat (i.e. it was never off) and any increase in the Tenant's utility bills was not as a result of the construction.
39. The Landlord stated that the basement construction was substantially completed in March, but they had to wait for city inspectors before they could complete the rest of the basement. While the basement unit was entirely finished in or around mid-August 2023, the Landlord stated that the Tenant caused delays at every step of the construction project because she did not want to share the property with another Tenant.

40. The Landlord stated that while he did not know how long the lock box remained on the Tenant's door, it was only used for four days while the basement entrance was being constructed after which entry into the Tenant's unit was no longer required.
41. The Landlord's witness, Jeff Walker, stated that he has been the property manager for this property since early 2023. He stated that the majority of the basement construction took about five to six weeks and that the Tenant was relatively difficult to deal with during the construction. He stated that whenever he tried to address a maintenance issue raised by the Tenant, she either refused to let service people in or she refused to contact him. He said that getting access to the Tenant's unit was difficult during the basement construction.

Analysis

42. I am not satisfied that the Tenant led sufficient evidence to establish unreasonableness with respect to the construction work. While the Tenant stated that construction workers were in and out of her unit up to and including June, the Tenant could not provide dates or times for any of those entries. I prefer the Landlord's testimony that as soon as the outside basement entrance was completed, entry to the basement through the Tenant's unit was no longer necessary. I do not find that four days to install an exterior basement entrance is unreasonable.
43. While the Tenant was uncomfortable having a lock box installed on the front door to allow construction workers access to the interior basement entrance for four days, there is no evidence before me that the unit was accessed by anyone other than the contractor or construction workers nor did the Tenant present evidence that the required entry could have been accommodated another way.
44. With respect to the driveway, I do not find that place of the construction pod for a short period of time to store building materials was unreasonable. The Tenant did not produce any documentary evidence (i.e. photographs) or witnesses to support her testimony that the contractor took over the garage.
45. The Tenant did not challenge the evidence of the Landlord or his property manager that the construction of the basement unit was substantially completed in or around the end of March 2023 (i.e. approximately two months after construction commenced) or that the contractor had to await building inspections before the balance of the work could be finished. The Tenant provided no evidence that the building inspections could have been scheduled earlier or that the time to complete the project was unreasonable.
46. While I agree that the use of the Tenant's living room on December 30, 2022 by the Landlord and the contractor was uncalled for, I do not find that this incident rises to the level of substantial interference.
47. The Tenant produced no documentary evidence (i.e. audio or photographs) or witnesses to support her testimony that construction workers were using her kitchen, blaring music, being rude or yelling at her children. In fact, the Tenant admitted that she never emailed the Landlord regarding any of those incidents.
48. Similarly, there is no evidence before me (i.e. photographs or witnesses) to support the Tenant's testimony that she could not access or use the backyard during construction.

49. With respect to the Tenant's utility bills during the construction process, there is insufficient evidence for me to determine what, if any, increases in the Tenant's utility bills were caused by the construction. While the Tenant alleges that the Landlord agreed to pay forty per cent of the utility bills, the email produced from the property manager [Doc 5356026, page 73] confirms that the sixty/forty split will only take place once tenant starts living in the basement. The Tenant admitted that the basement has never been rented and that she is responsible for paying the utility bills. Furthermore, the email dated July 4, 2023 from the property manager [Doc 5356026, page 88] confirms that the Tenant received a \$400.00 credit towards utilities during construction.
50. With respect to the air-conditioning, the Tenant did not challenge the Landlord's evidence that the air-conditioner was working except for one portion of the upstairs or that the issue with the air-conditioning was resolved once the Tenant allowed the contractor access to the rental unit in order to install an extra vent. I am satisfied that the issue could have been resolved earlier had the Tenant allowed access to her unit to the Landlord's contractor.
51. Therefore, with respect to the construction of the basement unit, I find given the nature of the work, this interference with the Tenant's reasonable enjoyment was reasonable in the circumstances and as such in accordance with section 8(3) of the Regulations, is not substantial. As such, no remedy is available to the Tenant for an interference in these circumstances.

Veiled threats of eviction

52. The Tenant stated that the Landlord asked her to vacate the rental unit because he wanted to rent the unit to another tenant for more rent. When she refused, he told her that he was going to install a basement apartment and if she did not like it, she could leave.
53. The Tenant stated that because she has refused to move, the Landlord has made her feel very uncomfortable. First, while he installed a basement apartment, he has never rented it. Second, he listed the house for sale and although it has never been sold, he has refused to take down the "For Sale" sign on the front lawn. Third, when she told the Landlord she did not want to move because her children were in school, the Landlord told her that his son was planning to attend university in the vicinity. The Tenant's position is that these actions constituted veiled threats.
54. The Tenant produced an audio recording of a telephone conversation between the Landlord and the Tenant on November 12, 2022 [Doc 5356013] which confirms that:
- the Landlord stated that because his expenses for the house (i.e. mortgage interest rate, property taxes) had increased, he planned to install a basement apartment to add extra income.
 - His son's friend was renting a basement apartment for \$1,800.00
 - The construction was scheduled to commence on February 1, 2023, after the Tenant's lease term expired on January 31, 2023.

- The Landlord suggested that the Tenant might want to look for another place to live because of the disruption the anticipated construction would cause, namely noise and dust and trades people needing access to the garage (to store materials) and the bathroom (powder room).
 - The Landlord advised the Tenant that she would have to share the driveway and the backyard with the basement tenant.
 - The Landlord confirmed the basement tenant would pay one-third of all utilities and he would e-transfer the Tenant one third of the hydro, gas and water bills
55. The Landlord denied that he ever told the Tenant he wanted her to move so that he could rent her unit for more money or that he ever told her his son would be moving into the unit.
56. There is insufficient evidence before me to determine that veiled threats were made to the Tenant. While the audio recording produced by the Tenant confirms that the Landlord believed he could obtain as much as \$1,800.00 for the basement unit, the audio does not say that that the Landlord told the Tenant he wanted to lease her rental unit for more money.
57. The evidence confirms that the Landlord suggested to the Tenant that she consider moving in order to avoid the noise, dust and inconvenience that the basement construction would cause and that he offered to help her do so. While the Landlord did indicate that his son was planning to attend university in the area, there is nothing in the evidence that indicates that the Landlord told the Tenant his son was planning to move into the rental unit.
58. I do not find that that having a "For Sale" sign on the front lawn constitutes harassment. The Landlord is entitled to try to sell his property.
59. Given that the Tenant admitted that the Landlord has not rented out the basement, I am satisfied that the Tenant continues to have exclusive use of the garage, driveway and backyard.
60. Lastly, while the audio recording confirms that the Landlord and Tenant disagreed with each other's conduct, I do not find the audio contained veiled threats.
61. Therefore, I find that the Landlord did not substantially interfere with the reasonable enjoyment of the rental unit or residential complex by the Tenant or by a member of their household by directing veiled threats to the Tenant.

N5 notice for utilities

62. The Tenant stated that in or around July 26, 2024, the Landlord served her with an N5 notice to terminate the tenancy for non-payment of utility bills (i.e. water and hot water tank rental) [Doc 5356026, page 149]. She stated that the Landlord has refused to provide her with copies of those bills so that she can verify amounts. It is undisputed that the Landlord did not commence an application based on that N5 notice and that the notice has since expired.

63. With respect to water bills, the Tenant stated that when her tenancy commenced, her water bills were very high. She discovered that the water meter was broken and that the city had advised the Landlord to fix it. She stated that although the water meter was eventually fixed, the Landlord refused to install an automatic meter reader. Given that the water meter was located inside the home, it could not be read by the city and they continued to charge the Tenant the maximum flat rate for water usage.
64. After the Tenant advised the Landlord that she would only pay \$50.00 per month for water, the Landlord installed the automatic meter reader and switched the water account into his name. To date, he has refused to provide the Tenant with copies of the water bills after they were switched into his name. The Tenant stated she needs those bills in order to determine if she overpaid for water during the period when the water bills were in her name (i.e. the maximum flat rate).
65. With respect to the hot water tank bills, the Tenant stated that she has never received copies of the Reliance hot water tank rental bills from the Landlord in order to verify the amount she is to pay.
66. The Landlord did not dispute that he switched the water account into his name. He stated that after he switched the account, he paid \$1,500.00 to the city to cover any overdue amounts and that he later received a credit because he had paid more than was owed. His representative submitted that the Landlord is entitled to keep the surplus that was refunded by the city.
67. The Landlord stated that although the Tenant is responsible for the hot water tank rental charges, the Tenant is very difficult to deal with so he just paid them himself.
68. Based on the evidence before me, I am satisfied that serving a N5 notice to terminate the tenancy for non-payment of utilities (i.e. water and hot water tank rental) while refusing to provide the Tenant with the invoices for those unpaid utilities substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenant or by a member of their household.

Withhold vital service

69. The Tenant withdrew this allegation at the hearing.

Remedies

70. With respect to delivery of the N5 notice to terminate the tenancy for non-payment of utilities (i.e. water and hot water tank rental) while refusing to provide the Tenant with the invoices for those unpaid utilities, I find it appropriate that the Tenant is entitled the following remedies:
 - a) The Landlord shall provide copies of all water bills and hot water tank rental bills to the Tenant from the start of the tenancy up to and including the date of this order so that the Tenant can satisfy herself as to what amounts she is responsible for regarding the hot water tank rental and water charges; and
 - b) The Landlord shall pay the Tenant a rent abatement of \$100.00.

It is ordered that:

1. The total amount the Landlord shall pay the Tenant is \$148.00. This amount represents:
 - \$100.00 for a rent abatement.
 - \$48.00 for the cost of filing the application.
2. The Landlord shall pay the Tenant the full amount owing by February 8, 2026.
3. If the Landlord does not pay the Tenant the full amount owing by February 8, 2026, the Landlord will owe interest. This will be simple interest calculated from February 9, 2026 at 4.00% annually on the balance outstanding.
4. Alternatively, if the Landlord does not pay the Tenant the full amount owing by February 8, 2026, the Tenant may recover this amount by deducting \$100.00 from the rent due on March 1, 2026.
5. On or before February 28, 2026, The Landlord shall provide the Tenant with copies of all of the water bills and all of the hot water tank rental bills for the rental unit from the commencement of the tenancy up to and including the date of this order.

January 28, 2026
Date Issued

15 Grosvenor Street, Ground Floor
Toronto ON M7A 2G6

Karen Gonçalves
Member, Landlord and Tenant Board

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