



Order under Section 87 / 89 / 88.1 Residential Tenancies Act, 2006

Citation: 2603880 Ontario Inc. v Safaverdian, 2026 ONLTB 8958

Date: 2026-02-03

File Number: LTB-L-046044-23

In the matter of: 1, 214 Mary Street
Hamilton Ontario L8L4W1

Between: 2603880 Ontario Inc. Landlord

And

Alireza Safaverdian Former Tenants
Negin Yaghmai

Samhita Gera and 2603880 Ontario Inc. (the 'Landlord') applied for an order requiring Alireza Safaverdian and Negin Yaghmai (the 'Former Tenants') to pay the rent and daily compensation that the Former Tenants owe.

The Landlord also applied for an order requiring the Former Tenants to pay the Landlord's reasonable out-of-pocket costs that are the result of the Former Tenants' conduct or that of another occupant of the rental unit or someone the Former Tenants permitted in the residential complex. This conduct substantially interfered with the Landlord's reasonable enjoyment of the residential complex or another lawful right, privilege or interest.

The Landlord also applied for an order requiring the Former Tenants 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 Tenants, another occupant of the rental unit or someone the Former Tenants permitted in the residential complex.

The Landlord also claimed charges related to NSF cheques.

This application was heard by videoconference on March 31, 2025 and November 6, 2025.

The Landlord's agent, S. Gera, the Landlord's legal representative, A. Davis, the Tenants and the Tenants' legal representative, M. Piliéci, attended the hearings.

Determinations:

1. As explained below, the Landlord proved some of the allegations contained in the application on a balance of probabilities.
2. It is undisputed that the Former Tenants moved into the rental unit on July 1, 2022, pursuant to a 12 month fixed-term lease, and it was to terminate on June 30, 2023. The rent was \$2,000.00, due on the first day of each month. The Former Tenants paid a last month's rent deposit of \$2,000.00. The Former Tenants sought to terminate the lease early by sending an N9 notice of termination on January 31, 2023, for termination on March 31, 2023.

Rent in Lieu of Notice:

3. It is undisputed that the Former Tenants did not pay any rent after February 1, 2023. The Landlord seeks \$8,000.00 for the four months of rent to the end of the 12 month term.
4. The Landlord's agent, S. Gera, is referred to as the "Landlord". The Landlord said that she responded to the Former Tenants' N9 notice, sent in January 2023, by informing the Former Tenants that she did not accept the N9 notice because the lease was supposed to be for a one year term, until the end of June 2023.
5. The Landlord said that she only received one day of notice before the Former Tenants moved out on February 28, 2023. She submitted into evidence a text from the Former Tenants, dated February 27, 2023, in which they inform her that their unit will be empty the next day, and that they will pay rent and electricity for March 2023.
6. The Landlord said that the parties were unable to find a mutually convenient time to walk through the unit and return the keys until March 11, 2023. However, she said that she went to inspect the unit a week or so earlier than that, and she saw that there was extensive damage.
7. The Landlord said that she first listed the rental unit for rent on March 23, 2023, but she had to continue advertising it, and she also had to continue to reduce the requested rent, until she could find a suitable new tenant. She said that it was rented by July 1, 2023. She said that 60-90 days to re-rent the unit is not abnormally long because a good tenant would have to give 60 days notice, and she does not "just give it to anybody". She said that she advertised on Facebook, on rentals.ca, at the local colleges and universities. She submitted into evidence documentary evidence these advertisements. She also said that it takes a week or two to vet a new tenant and to check their credit. In this case, the Landlord said that she did not find a good candidate until May, and then they had to give 60 days notice to the place where they were living.
8. The Landlord said that she really wanted to rent the unit out quickly. She said she fixed it up, kept reducing the rent, and she went "way and beyond". She said that, prior to the Former Tenants, the unit had not been empty for even one month.
9. The Former Tenants said that they provided 60 days notice by sending the Landlord an N9 notice of termination for March 31, 2023. They said that they applied their last months rent deposit to the rent for March 2023.

Reasons and Analysis:

10. It is undisputed that the Former Tenants paid a last month's rent deposit. Therefore, the Former Tenants have paid rent up to the end of March 2023. It is also undisputed that the end of the tenancy term would have been June 30, 2023, if the Tenants had not vacated early. There is also no dispute that the Former Tenants vacated the rental unit in February 2023, and there was a walk through of the unit in March 2023, when the Former Tenants returned the keys.
11. It is before me to determine whether the Landlord is entitled to three extra months of rent, April, May and June, 2023, for which the Former Tenants would have been responsible in the one year lease, if they had not terminated the tenancy early.
12. It is undisputed that the Former Tenants informed the Landlord in January 2023 that they intended to leave by the end of March 2023. They believe they gave the Landlord the required 60 days notice pursuant to the *Residential Tenancies Act, 2006* (the 'Act').
13. The Former Tenants' understanding of the Act is not correct. In fact, subsection 44(3) of the Act provides that the Former Tenants had to provide 60 days notice prior to June 30, 2023, which would have been the last day of a yearly period on which the tenancy is based. Therefore, the Former Tenants terminated early, and pursuant to subsection 88(1)1 of the Act, the Landlord might be entitled to "arrears of rent" for the period that ends on the earliest termination date that could have been specified in the notice, had the notice been given in accordance with the Act. In this case, that would be to June 30, 2023.
14. It is therefore before me to consider whether the Landlord has complied with section 16 of the Act. That provision obliges the Landlord to "take reasonable steps to minimize the person's losses."
15. The Landlord provided ample evidence of listing the rental unit for rent at a significant cost to her, and repeatedly reducing the rent until she was able to find a suitable new tenant in May for July 1, 2023. It appears, at first glance, to have taken a very long time to find someone suitable, but sometimes the market can be difficult. However, I also must consider that the Landlord waited until near the end of March 2023, to first start listing the unit for rent. The Landlord had known since January 2023 that her Former Tenants were intending to leave. It is before me to consider whether it was reasonable to wait over two months to even start listing the unit.
16. I find, on the whole, that it was not unreasonable for the Landlord to wait that long. The Landlord already knew that the rental unit was in an unkempt state. The unit would not be particularly attractive to good prospective renters with lots of mouse traps around, as well as mess from children's toys and playdough, and it would need to be fixed up after the Former Tenants had gone. The messiness and playdough can be observed in the photos submitted by the Landlord after an inspection in January 2023. It was also the middle of winter, and therefore a more difficult time to start advertising a unit for rent, particularly in an area with lots of students.

17. I must also consider the fact that the Landlord still took three more months to re-rent the unit after March 2023. She kept reducing the rent, and she was still unable to find someone until May 2023. It is not unreasonable of the Landlord to want to check the credentials of a good tenant, and good tenants would likely be on a lease that requires 60 days' notice as well. Thus far, I find that the length of time the Landlord took to start advertising the unit, as well as the length of time it took to find a good tenant after advertising were not unreasonable. While the Landlord is not permitted to pass on her advertising costs to the Former Tenants (see below), the ups and downs of the rental market were not the fault of the Landlord as she was trying to mitigate her loss because the Former Tenants broke their lease and left early.
18. Therefore, I find that the Landlord mitigated her loss pursuant to section 16 of the Act, and the Former Tenants left three months earlier than the term of their lease. The last issue for me to consider is the Former Tenants' contention that they were justified in terminating the lease early because of all the problems in the rental unit and the pest issues.
19. In my discussion of the outside brick issue below, I address some of the evidence about pests and mice. Ultimately, it is undisputed that the brick was in a dilapidated state and the Former Tenants were not unreasonable to be concerned about pest entry points to the building. However, the evidence also shows, on a balance of probabilities, that the Landlord knew there was a potential pest problem, she responded immediately to all complaints, and she undertook regular pest maintenance. While the residential complex is old, with many potential holes for entry of pests, and the basement is damp and crumbling as well, the Former Tenants failed to show any evidence of a significant pest problem. They saw a few insects, and even a couple of mice through the tenancy, as they would in any old, deteriorating building, but there was no evidence that it was so significant, nor was there evidence that the Landlord ignored their concerns, that it justified them leaving three months early.
20. Consequently, the last month's rent deposit is applied to March 2023. The Landlord is entitled to three months of rent pursuant to section 88(1)1 of the Act, or \$6,000.00.

Out-of-pocket expenses for Substantial Interference:

21. The Landlord is claiming \$1,445.00 advertising costs to re-rent the unit after the Former Tenants allegedly "abandoned" the unit. She submitted into evidence receipts for advertising with realtors, Facebook, campus advertising, Kijiji. She also submitted into evidence listings that show that she kept reducing the rent being requested, from \$2,200.00 to \$1,900.00 by May 2023.

Reasons and Analysis:

22. The Landlord would have had to advertise her unit for rent at any time a tenant decides to terminate a tenancy. She is not entitled to pass that cost on to the Former Tenants who are leaving. Their early vacating is taken into account in the consideration of rent in lieu of notice.

23. Consequently, the Landlord is not entitled to any out-of-pocket expenses for advertising the unit for rent, as substantial interference, caused by the Former Tenants leaving the unit early.

Damages:

24. The Landlord alleges that the Former Tenants caused damage to hallway floors, bathroom vanity, baseboards, carpets, kitchen laminate, outside bricks.
25. The Landlord submitted into evidence photos she said that she took around March 4, 2023, after the Former Tenants vacated the rental unit. There were photos of baseboards that looked chipped and cracked, hallway flooring with gaps, kitchen floorboards with gaps, carpet with what appeared to be small stains, laminate kitchen counter with some water staining and scratching, bathroom vanity doors with peeling paint, scratches in the paint inside kitchen cabinets, dried playdough in cracks between walls and floor, and yellow foam filler in the outside bricks.
26. The Landlord also submitted into evidence an estimate from her contractor for replacing floor laminate, touching up door jambs, painting, touching up caulking in kitchen, painting kitchen cupboards, fixing up the baseboards, painting the bathroom cabinet, cleaning the carpet, painting the unit front door, all for a total of \$3,500.00.
27. The Former Tenants said that there were gaps in the flooring upon moving in, that there were scratches in baseboards when they moved in, and they did not do any damage to the kitchen counters or cupboards. They also said that there were stains on the wall when they moved in. They submitted into evidence photos of hallway flooring when they moved in, walls with faint stains when they moved in, and photos of the kitchen when they left.

Reasons and Analysis:

28. I find that a comparison between the Landlord's photos and the Former Tenants' photos leads me to determine that the Landlord has failed to prove, on a balance of probabilities, any undue damage caused wilfully or negligently by the Former Tenants with respect to the interior of the rental unit, for the reasons that follow.
29. The rental unit is in an old, Victorian building. There were gaps in the laminate flooring upon moving in, and there is faint staining visible under the paint in the walls of the rental unit. The small, faint carpet stain may have been present when the Former Tenants moved in, there is no evidence it was caused by them. The total of \$3,500.00 for all the jobs listed includes a number of things that the Landlord would have had to undertake in any case, before a new tenant moved into the rental unit. The contractor did not itemize each job. For example, the job includes painting the front door of the rental unit or cleaning the carpets which would have to be cleaned any way. While some of the baseboard gaps seen in the Landlord's photos may have been caused by more than normal wear and tear, it is impossible to tell what it looked like upon moving in, and the floors and walls and baseboard are old and were not in a pristine state when the Former Tenants moved in. The Landlord may have done a cursory cosmetic paint job prior to commencement of the tenancy but the Former Tenants' photos showed that there were still visible stains under the paint. I find that much of what the Landlord claims is negligent

or wilful damage is the result of cheap, old, or inappropriate materials, like laminate flooring in an old Victorian building with uneven floors and walls, or a quick paint job. For example, the bathroom vanity cracks seem to be more the result of the wrong paint, that is, not waterproof paint, having been applied in a wet, moist area. The resulting cracking is caused by inevitable wear and tear in the bathroom rather than any damage wilfully caused by the Former Tenants. The kitchen cabinets appear to be a faux wood laminate, which will always be susceptible to water stains as it is located right next to the kitchen sink. The stains or cracks visible in the Landlord's photos are, I find, the unfortunate result of admittedly hard wear and tear of the type of surface in question by the Former Tenants, rather than undue damage caused by them.

30. The parties hotly contest the yellow foam applied by the Former Tenants to the outside brick, so I will deal with that issue separately, below.

Damage to Outside Bricks:

31. It is undisputed that there is a lot of deterioration in the outside brick of the house, with crumbling, disintegrating bricks. The Former Tenants' photos show significantly large holes and gaps in the brick.
32. The Former Tenants also submitted into evidence photos of the unfinished basement of the house. It appears to have a few areas with puddles and a dehumidifier is running continually. The interior wall render in the basement is crumbling in some areas, and the one can see the back of the bricks.
33. The Former Tenants are very sensitive to pests, and it is undisputed that they frequently complained to the Landlord about mice and insects. The Former Tenants also submitted into evidence photos of their interior with a number of mouse traps placed all around the unit. They said that they believed the holes, deteriorating brick, lack of insulation on thick walls, and the damp, wet conditions were contributing to the mouse and pest problem. They said that the photos make it "obvious" that there would be pest problems.
34. The Former Tenants said that the Landlord had pest control visit the unit regularly. They said that she told them there were no problems, the visits were only "preventative". They said that they caught a number of mice in the time they were living in the rental unit.
35. The real dispute between the parties is whether or not the Landlord authorized the Former Tenants to put yellow foam in all the gaps in the bricks, all over the external back wall. The Landlord said that the Former Tenants asked her whether they could spray foam in a small part of the outside wall to deter pests, and she permitted it. However, the Landlord alleges that the Former Tenants sprayed it all over the external wall without authorization and it is very unsightly and it will be costly to remediate. Further, the Landlord alleges that there was never a pest problem, that she responded to each complaint about pests, and she was only humouring the Former tenants by telling them they could spray foam in a small section of outside wall. She said that she never authorized spray foam in a large section of wall. She said that after inspecting the rental unit in January 2023, she noted that the Former Tenants kept the unit in a state of uncleanness and mess and if there was a pest problem it was brought on by the Former Tenants.

36. The Former Tenants said that the Landlord authorized them to spray the yellow foam, and she even paid for it.
37. The only documentation submitted into evidence for this issue was a text message exchange between the Landlord and the Former Tenants. In it, the Former Tenants send photos of the wall with deteriorating brick to the Landlord, and they suggest that the deteriorated state of the wall is how mice are entering the unit. The Former Tenants then say, "I'll try to find something from home depo to cover it," and the Landlord responds, "OK, thank u." (sic) The Former Tenants also had a text exchange in which the Landlord tells them "I got your email I will be sending you money for all your receipts....Pls don't spray foam inside the home. Only steel wool. The foam spray will damage the interior. Thanks.."
38. The Landlord's witness, M. Petrantonio (MP), is a pest control specialist. He said that he does not believe pests could enter through the bricks because there is usually a "foot and a half of solid building material" at the wall. He said that when visiting the rental unit he noted poor cleanliness, including crumbs and mess. He also said that he baited for mice and there were dead mice reported, therefore the baiting worked.

Reasons and Analysis:

39. I find, on a balance of probabilities, that it was not unreasonable for the Former Tenants to believe that they had authorization from the Landlord to spray foam in the outside brick. There was no evidence before me that the spray foam in the brick created any type of actual structural damage. The Landlord's main reason for the foam causing damage was that it was unsightly, and it would be costly to remove. I find that it was not unreasonable of the Former Tenants to believe that the Landlord authorized them to spray the foam for the following reasons.
40. The only documentary evidence before me, texts between the parties, suggest that the Landlord authorized the Former Tenants to buy and spray foam, but only on the outside. They only sprayed the foam on the outside. It is undisputed that the Landlord reimbursed the Former Tenants for this foam. There was no documentary evidence that the Landlord objected to the foam at any time prior to the Former Tenants vacating the rental unit. In fact, the first indication that the Landlord objected to the foam was when she filed this application, months after the Former Tenants vacated.
41. I heard a lot of evidence about pest issues in the rental unit. Presumably it was to prove or disprove whether or not there was a pest issue in the rental unit, or whether the Former Tenants were responsible for any pest issues. However, whether or not the Former Tenants had a justification for spraying the foam, or whether their heightened concern about pests was reasonable, was never the issue. There is no evidence that the spray foam caused structural damage to the building. The main contention about spray foam causing "damage" to the building is a question of esthetics. The Landlord finds the spray foam ugly and it will be costly to remove it. The only issue for me to determine, then, is whether or not the Former Tenants sprayed the foam without authorization from the Landlord. I find, after inspection of all the documentary evidence, and looking at the

actions of the parties over the months of the tenancy, that the Former Tenants had reason to believe they were authorized to spray the foam on the exterior brick.

42. Consequently, the Landlord has failed to prove, on a balance of probabilities, that the Former Tenants are responsible for damage with respect to the yellow spray foam on the outside brick.

It is ordered that:

1. The Former Tenants shall pay to the Landlord \$6,000.00, which represents rent and compensation owing up to June 30, 2023.
2. The Former Tenants shall pay to the Landlord \$201.00 for the cost of filing the application.
3. The total amount the Former Tenants owe the Landlord is \$6,201.00.
4. If the Former Tenants do not pay the Landlord the full amount owing on or before February 14, 2026, the Former Tenants will start to owe interest. This will be simple interest calculated from February 15, 2026 at 4.00% annually on the balance outstanding.

February 3, 2026
Date Issued

Nancy Morris
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.