



Order under Section 30 and 135 Residential Tenancies Act, 2006

File Number: LTB-T-050310-25

In the matter of: 54 WALMAN DR
GUELPH ON N1G4G8

Between: Brie Clermont
Jessica Pickering
Sophie Klrkwood
Claire Brockie
Yasmine Hamlaoui
Beth Nixon Tenants

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And

Elavalakanar Kanakaratnam Landlord

Brie Clermont, Jessica Pickering, Sophie Klrkwood, Claire Brockie, Yasmine Hamlaoui and Beth Nixon (the 'Tenants') applied for an order determining that Elavalakanar Kanakaratnam (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.

Brie Clermont, Jessica Pickering, Sophie Klrkwood, Claire Brockie, Yasmine Hamlaoui and Beth Nixon (the 'Tenants') also applied for an order determining that Elavalakanar Kanakaratnam (the 'Landlord') collected or retained money illegally.

This application was heard by videoconference on December 18, 2025. Only the Tenants and the Tenant's agent Peter Clermont attended the hearing.

The Landlord was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Tenant's evidence.

Determinations:

T6 Application

1. The T6 application is amended to remove Peter Clermont as a Tenant. The evidence at the hearing is that Peter Clermont is the father of the Tenant Brie Clermont, and not a Tenant.

2. The Tenants' T6 application alleges that the rental unit was not habitable at the commencement of the tenancy on May 1, 2025, resulting in the Tenants serving a notice of termination on June 4, 2025. The Tenants seek termination of the tenancy on May 1, 2025.
3. The Tenant's evidence is that they were seeking a rental unit for six university students to share and found an advertisement for the Landlord's unit. After some of the Tenants viewed the rental unit in October 2024, all six Tenants signed individual leases in early November 2024.
4. The lease term commences on May 1, 2025, and despite each tenancy agreement being individual, this is a joint tenancy with the Tenants renting the entire property for a monthly rent of \$5,430.00.
5. The Tenants testified that not all of them intended to begin occupying the rental unit on the commencement date of the tenancy agreement however, at least one of the Tenants was looking to enroll in summer school courses and expected the rental unit to be "livable" on the commencement date of the lease.
6. The Tenant Jessica Pickering obtained keys to the rental unit on May 1, 2025, and Sophie Kirkwood had moved some furniture into the rental unit. The first time the Tenants' parents saw the rental unit was on May 1, 2025.
7. All of the Tenants' evidence was consistent that the rental unit was not in "livable" condition on May 1, 2025. The issues in the rental unit consisted of a lack of cleanliness, mold, and other maintenance issues.
8. The Tenants gave evidence that the issues were brought to the attention of the Landlord immediately however, after no progress had been made to remedy the issues by June 1, 2025, the Tenants served a letter to the Landlord dated June 4, 2025, advising that they will be terminating the tenancy and seeking the return of the deposit paid.
9. The Tenants submitted photographs of the rental unit showing numerous holes in the walls that were patched but not painted, mold in kitchen cupboards, a filthy hood vent and exhaust fan, dirt and grime throughout the unit, mold in the shower surround, rusted appliances, broken fixtures, and substandard repairs to door frames and locking hardware.

Analysis

10. The relevant sections of the Act provide:

20 (1) 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.

(2) Subsection (1) applies even if the tenant was aware of a state of non-repair or a contravention of a standard before entering into the tenancy agreement.

And,

13 (1) The term or period of a tenancy begins on the day the tenant is entitled to occupy the rental unit under the tenancy agreement.

(2) A tenancy agreement takes effect when the tenant is entitled to occupy the rental unit, whether or not the tenant actually occupies it.

11. The Tenants seek a determination that the rental unit was uninhabitable and request an order terminating the tenancy on May 1, 2025. Termination of the tenancy on May 1, 2025, cannot be ordered unless the Tenants prove that the issues were so severe as to render the rental unit unfit for habitation.

12. The Board's Interpretation Guideline 5 Breach of Maintenance Obligations gives consideration to the phrase "fit for habitation":

A number of cases have also considered the meaning of "fit for habitation".

*Summers v. Salford Corp.*⁵ is the leading case from Britain. The Court held that if the state of disrepair is such that by ordinary use, damage may naturally be caused to the occupier, either in respect of personal injury to life or limb or injury to health, the house is considered not reasonably fit for habitation.

This phrase "fit for habitation" is not the standard expected, and should not be used to limit or qualify "good state of repair". Generally, it is enough for any part of the premises to be unfit. Examples would include infestations of rodents or vermin, bathrooms with backedup sewage, rooms with broken windows, etc.

13. In this matter, the Tenants obtained possession of the rental unit on May 1, 2025, and the tenancy commenced on that date. It is clear from the Tenant's evidence that there were outstanding maintenance issues, and the Tenants evidence is that these issues were discussed with the Landlord on May 3, 2025.

14. While I accept that the Landlord was made aware of serious maintenance issues at the commencement of the tenancy, I do not find that the Tenants have proven, on a balance of probabilities, that the rental unit was not fit for habitation.

15. Some of the issues alleged by the Tenants were cosmetic or related to cleanliness however, there was no evidence that the rental unit lacked vital services, plumbing, windows, or doors, nor that the rental unit had a severe pest infestation.

16. The Tenants accepted keys, moved furniture, and took possession of the rental unit. Further, after discussing the issues with the Landlord, the Tenants did not serve notice advising that they intended to terminate their tenancy until approximately one month later on June 4, 2025.

17. In these circumstances, I do not find that the Tenants proved that the rental unit was not fit for habitation and accordingly, I am unable to order the tenancy terminated as of May 1, 2025.

T1 Application

18. As explained below, the Tenants did not prove the allegations contained in the application on a balance of probabilities. Therefore, the application is dismissed.
19. The Tenants' T1 application is dependent on a finding from the T6 application that the tenancy terminated on May 1, 2025, as a result of the rental unit not being fit for habitation.
20. This is not a situation in which section 107 of the Act applies and therefore, the Tenants would need to prove that the Landlord illegally retained the Tenants' rent deposit.
21. Section 37 of the Act provides:

37 (1) A tenancy may be terminated only in accordance with this Act.

22. The Tenants entered into a fixed-term tenancy for a period of one year. As decided above, the Tenants were not entitled to terminate their tenancy on May 1, 2025.

23. Section 44(4) of the Act sets out the requirements for notice during a fixed-term tenancy:

(4) A notice under section 47, 58 or 144 to terminate a tenancy for a fixed term shall be given at least 60 days before the expiration date specified in the tenancy agreement, to be effective on that expiration date.

24. Since there is no order terminating the tenancy on May 1, 2025, and the Tenants entered into a fixed term lease, the Tenants were not entitled to give notice to terminate the tenancy until 60 days prior to the expiration of the fixed term.
25. The Tenants' evidence is that they only paid \$5,430.00 as a rent deposit at the commencement of the tenancy and no rent was paid for the month of May 2025. Accordingly, the Tenants are not entitled to the return of their deposit.

It is ordered that:

1. The Tenants' applications are dismissed.

February 6, 2026

Date Issued

Kyle McGraw

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.