



**Order under Section 69
Residential Tenancies Act, 2006**

File Number: LTB-L-074223-25
LTB-L-078844-25

In the matter of: 1129, 2 DAVID EYER RD
RICHMOND HILL ON L4S0N6

Between: 1000 EGLIN EAST D INC. Landlord

And

SONA ESMAILI Tenant

1000 EGLIN EAST D INC. (the 'Landlord') applied for an order to terminate the tenancy and evict SONA ESMAILI (the 'Tenant') because:

- the Tenant did not pay the rent that the Tenant owes.
- the tenancy was entered into as a result of an agreement to purchase the condominium unit and the agreement has been terminated.

This application was heard by videoconference on November 13, 2025.

The Landlord's Agent, Nia Bianchi, the Landlord's Legal Representative, Nicole Davidson and the Tenant attended the hearing.

Determinations:

L1 Application – Non-payment of Rent

1. The Landlord and the Tenant entered into an Agreement of Purchase and Sale which allows the Tenant to occupy the rental unit, which is a condominium unit, from the occupancy date to the closing date and requires the Tenant to pay monthly occupancy fees in the amount of \$6,554.00. I find that the occupancy fee meets the definition of rent under the *Residential Tenancies Act, 2006* (the 'Act'), and the Tenant's right to occupy the rental unit makes this a tenancy.
2. The Landlord served the Tenant with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). The Tenant did not void the notice by paying the amount of rent arrears owing by the termination date in the N4 Notice or before the date the application was filed.

3. As of the hearing date, the Tenant was still in possession of the rental unit.
4. The lawful rent is \$6,554.00. It is due on the 1st day of each month.
5. Based on the Monthly rent, the daily rent/compensation is \$215.47. This amount is calculated as follows: \$6,554.00 x 12, divided by 365 days.
6. The Tenant has not made any payments since the application was filed.
7. The rent arrears owing to November 30, 2025 are \$39,324.00.

L2 Application – Agreement of Purchase and Sale has Ended

8. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the tenancy is terminated.
9. The Tenant was in possession of the rental unit on the date the application was filed.
10. On August 31, 2025, the Landlord gave the Tenant an N8 notice of termination deemed served on August 31, 2025 via email as agreed upon in writing between the parties. The notice of termination alleges that the tenancy was created as a result of an Agreement of Purchase and Sale for a proposed condominium unit and that the agreement has been terminated.
11. Section 58(1)(4) of the Act states:

58(1) A landlord may give a tenant notice of termination of their tenancy on any of the following grounds...

4. The tenancy arose by virtue of or collateral to an agreement of purchase and sale of a proposed unit within the meaning of the *Condominium Act, 1998* in good faith and the agreement of purchase and sale has been terminated.
12. As per the Agreement of Purchase and Sale ('APS') which was entered into evidence, the Landlord is the vendor of the rental unit and the Tenant was a prospective purchaser of the rental unit. the APS was executed on April 22, 2023. Pursuant to the APS, the Tenant agreed to purchase the rental unit from the Landlord.
13. The APS states that a tentative first occupancy date was set for February 14, 2024, which was subject to potential further delays. It was undisputed that the occupancy date was delayed to June 3, 2024 as per a letter from the Landlord dated November 10, 2023.
14. The APS states at paragraph 4 (c) that "the purchaser shall pay an occupancy fee (the "Occupancy Fee") monthly in advance, on the first day of each month, during the period between the Occupancy Date and the Unit Transfer date..." A statement of adjustment dated June 6, 2024 was entered as evidence to support the assertion that the occupancy was \$6,554.00 per month. The Landlord collected 12 post-dated cheques in the amount of \$6,554.00.

15. The Tenant, Sona Esmaili ('SE') testified that the Landlord misrepresented the amount of the occupancy fees indicating to her that the occupancy fees would be "negligible." SE testified that the Landlord required 13 post-dated cheques in the amount of \$6,554.00, which she provided shortly after signing the APS. SE submits that she was told that the cheques would be returned to her as there was no occupancy fee. SE entered into evidence an Instagram post from the Landlord dated July 3, 2024 which states that their first time buyer program includes "no occupancy period." I note that the APS predates the Instagram post which appears to contain generalized information. I prefer the Landlord's evidence, which was supported by the APS, that the purchaser shall pay an occupancy fee which was the amount of \$6,554.00 per month which was collected by the Landlord via post-dated cheques. I do not accept that the Landlord told SE that although she was required to provide post-dated cheques, she would not be charged an occupancy fee. I find it more likely, on a balance of probabilities, that based on the fact that the Tenant provided 12 post-dated cheques in the amount of \$6,554.00 that it was agreed that the occupancy fee was \$6,554.00 per month.
16. SE also testified that as she was required to pay additional deposits in excess of \$200,000.00, she has been unable to close due to the Landlord charging additional fees that were not discussed between the parties. I was not satisfied that the Landlord's collection of a deposit for the APS is indicative of bad faith as SE alleges.
17. SE also alleges that the currently advertised price of \$799,000.00 for the rental units in the residential complex is indicative of bad faith as she entered into an APS for over \$1,000,000.00. However, as this was an agreed price in the APS, I was not satisfied that this amounts to bad faith. The real estate market is subject to fluctuations and I was not satisfied that the fact that the Landlord is now advertising the unit at a lower price is indicative of bad faith as SE asserts.
18. SE submits that she signed an amendment to the agreement of purchase and sale on April 22, 2023, the date she signed the APS, which states that she will be provided with a \$12,000.00 credit to be used towards décor upgrades as an incentive to enter into the APS. SE testified that upon moving into the rental unit, she was made aware that the amendment was refused by the Landlord. SE submits that this is further proof of the Landlord's bad faith in entering into the APS.
19. NB testified that SE had requested the credit but that the request was denied and the Landlord did not sign the amendment to the APS. NB testified that SE's realtor was provided with notice that the amendment was declined by the Landlord.
20. The amendment was not signed by the Landlord and I was not satisfied that this amounted to a mis-representation from the Landlord. The Landlord was under no obligation to sign the amendment to the agreement of purchase and sale and I was not satisfied that this amounts to bad faith on the part of the Landlord.
21. The Landlord's Agent, Nia Bianchi ('NB') testified that while there was no firm closing date in the APS, the Landlord provided SE with notice via email in May 2025 indicating that a closing date was set for June 24, 2025. NB testified that the closing date was subsequently pushed to July 31, 2025 via a letter dated July 24, 2025.

22. SE submits that she has not failed to close on the sale of the rental unit and that the Landlord entered into the APS in bad faith. SE submits that she has always intended to close on the sale of the rental unit but due to the Landlord's misrepresentation of the value of the rental unit and damage in the rental unit, SE was unable to close on the home.
23. The closing statement of adjustments dated November 10, 2025 which was entered into evidence by SE shows an outstanding amount of \$827,422.20 to close on the sale of the rental unit which was not paid by SE. Based on the evidence and submissions before me, I am satisfied that SE failed to complete the closing of the sale of the condominium unit and as a result the APS was terminated.
24. Based on the evidence before me, I am satisfied that the tenancy arose out of an agreement of purchase and sale of a condominium unit. I find that the Tenant's right to occupy the rental unit pending the closing date constituted a tenancy and that the occupancy fee was \$6,554.00 per month. I am satisfied that while the Tenant may have regretted her decision to enter into the ASP, the tenancy between SE and the Landlord was entered into in good faith. I am not satisfied that the various actions of the Landlord individually or collectively establish that they entered into the tenancy in bad faith.
25. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
26. There is no last month's rent deposit.

Section 82 Issues

Unlawful Entry

27. SE testified that the Landlord's staff including builders, condo management and contractors enter the unit without providing notice. SE testified that on October 2, 2024, the Landlord's cleaning staff entered the rental unit while she was sleeping. SE testified that as she was not aware that staff would be entering and did not know who was in her unit she suffered significant distress.
28. NB did not deny that cleaning staff had entered the rental unit. NB testified that the cleaning staff had assumed the unit was unoccupied and entered to clean but apologized and left once they realized that the unit was occupied.
29. SE also testified that on February 12, 2025, the Landlord's staff again entered the rental unit without giving any notice of entry. The Landlord again did not deny the entry but stated that their electricians had entered the unit to perform regular maintenance as they believed the unit was not occupied.
30. The Landlord testified that this issue has now been addressed and there are coloured stickers on occupied units that alert staff not to enter the units.
31. Based on the evidence before me, I find that the Landlord has unlawfully entered the rental unit without providing notice as required under section 27 of the Act.

32. The leading case with regards to unlawful entries is *Wrona v. Toronto Community Housing Corp.*, [2007] O.J. No 423 (Ont. Div. Ct.) ('Wrona'). In *Wrona*, the tenant was provided with a notice of entry that failed to meet the mandatory requirements for a notice of entry under the Act. The Court awarded the tenant \$1,000.00 for a single illegal entry.
33. In the *Wrona* case there had been a lengthy history of disputed notices of entry. In this case, the Landlord's staff entered the rental unit while SE was sleeping and this caused SE significant distress. Despite the confusion, the Landlord took no steps to address the unlawful entries from their staff and the Landlord's staff again entered on February 12, 2025. Based on the evidence before me, I find that an award of \$500.00 is warranted for the first entry which while appears to have been a mistake on the Landlord's part but caused the Tenant unnecessary distress. However, as it appears it took the Landlord several months to address the issues of illegal entry from their staff which resulted in a second illegal entry, I find that an abatement of \$1,000.00 is appropriate for the second entry in this case. The total abatement for both illegal entries is \$1,500.00 and this amount will be deducted from the amount owing to the Landlord.

Exhaust Fan

34. SE submits that the washroom and kitchen exhaust fan are connected and constructed in a manner that contravenes sections 6.2.3.8 and 9.32.3.5 of *Ontario Regulation 332/12* under the *Building Code Act, 1992*.
35. SE also testified that when she turns on the washroom fan, that air comes out of the kitchen fan which is not sanitary. SE entered into evidence a video which SE testified shows that when she uses the washroom fan, air blows through the vents and exits through kitchen fan.
36. SE testified that she has never informed the Landlord of this issue.
37. Section 20 of the Act states:

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.

38. 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.
39. In this case, as SE has acknowledged that she did not inform the Landlord about the issue pertaining to the washroom and kitchen fans. In accordance with *Onyskiw*, the Landlord is not automatically in breach and must be made aware of the issue. I was not satisfied that the Landlord would have known that this was an issue without having been informed by SE and as a result, the claim for an abatement is denied.

Electrical Work

40. SE testified that the lights in the hallways and washrooms flicker and dim due to the poor quality of electrical work in the rental unit. SE testified that she had not informed the Landlord about the issue with the lights. As a result, in accordance with *Onyskiw*, I find that the Landlord is not automatically in breach and would not have known about this issue as SE had never reported the issue to the Landlord. As a result, the claim for an abatement on this basis is denied.

Access to Elgin Mills

41. The Site Plan for the Landlord's new development indicates that the residential complex will have "street access to Elgin Mills."
42. SE submits that the Landlord's advertisement indicated that the residential complex would have road access to Elgin Mills Road. SE testified that there is still no road access to Elgin Mills Road and that this has substantially interfered with her reasonable enjoyment of the residential complex.
43. NB testified that the construction of the extension of road connecting the rental unit to Elgin Mills Road falls under the City's purview and as a result, the Landlord has no control over the duration of time it will take for the City of Richmond Hill to construct the road. NB testified that while the construction was approved by city council, she cannot speak to the construction of the road.
44. Section 130 of the Act states:
- A tenant of a rental unit may apply to the Board for an order for a reduction of the rent charged for the rental unit due to a reduction or discontinuance in services or facilities provided in respect of the rental unit or the residential complex.
45. Assuming without deciding that street access to Elgin Mills is a service or a facility, the Landlord has no control over the construction of the road, I was not satisfied that SE has proven that the Landlord reduced or discontinued a service.
46. Section 22 of the Act states:

A landlord shall not at any time during a tenant's occupancy of a rental unit and before the day on which an order evicting the tenant is executed substantially interfere with the reasonable enjoyment of the rental unit or the residential complex in which it is located for all usual purposes by a tenant or members of his or her household.

47. In this case, I was not satisfied that this was a promised provision in the lease. The complex was unfinished when the Tenant moved into the rental unit and it does not appear that this service was a promised service or facility that was promised as a part of the Tenant entering into the APS. With regards to the claim for substantial interference as a result of the failure to complete the road access to Elgin Mills was not a result of the Landlord's conduct or omission, the Tenant's request for an abatement of rent is denied.

Failure to Provide a Piano Lounge

48. The advertised amenities for the residential complex includes a piano lounge room.
49. SE testified that she isn't able to play the piano as a result of the Landlord's failure to provide a piano room. SE also asserts that the failure to provide a piano room has diminished the value of the rental unit.
50. NB testified that the room has been built but the Landlord has not ordered the piano because other residents had expressed an interest in replacing the piano with dining chairs and the decision on what to do with the piano room was currently before the condo board to decide how to use the room.
51. Based on NB's submissions, I was satisfied that the discontinuance of the service was reasonable.
52. Section 39(2) of *Ontario Regulation 516/06* under the Act states that:

If a service or facility is discontinued and the discontinuance was reasonable in the circumstances, the rent shall be reduced by an amount that is equal to what would be a reasonable charge for the service or facility based on the cost of the service or facility to the landlord or, if the cost cannot be determined or if there is no cost, on the value of the service or facility, including the cost to the tenant or former tenant of replacing the discontinued service or facility.

53. SE requested an abatement of rent for the discontinuation of the service. However, as I have found the discontinuance of the service to be reasonable, the remedy that flows from the discontinuance of the service is the cost of the reasonable charge for the service or facility based on the cost of the service or facility to the landlord or the value of the service or facility, including the cost to SE. SE did not lead any evidence with regards to the value of the service or facility or the cost of replacing the discontinued service or facility. As a result, the Tenant's claim for an abatement of rent due to the failure to provide a piano lounge is denied.

Security Cameras & Safety

54. SE testified that the Landlord advertised that the residential complex would have "secured access entry with camera monitoring at select building entry points."
55. SE testified that on February 8, 2025 she received a call from security regarding an individual breaking into the Tenant's unit. However, SE did not lead any evidence that there was any security risk or attempted entry. Rather, it appears the Landlord received a complaint from a resident about an attempted break-in and followed up on the complaint. I was not satisfied that the Landlord's actions in this case substantially interfered with the SE.
56. SE also submits that as the Landlord has not installed any security cameras at any main entrances, hallways or elevators which has impeded the Tenant's safety and is another amenity that was promised but was not delivered to the Tenant.

57. NB testified that security cameras have been installed in the garage and at the visitor entrances.
58. In cross-examination, SE stated that she does not believe there are cameras for a majority of the building or in the parking garage.
59. I was not satisfied that the Tenant has proven that the Landlord has failed to provide security services and facilities, namely the security cameras. Rather, I found the Landlord's evidence to be credible that there are security cameras installed in the garage and the visitor entrances and the Landlord has security staff at the building which appears to coincide with what was promised in the advertisement entered into evidence by the Tenant. I was also not satisfied that the alleged lack of security cameras or that the security incident on February 8, 2025 amounted to substantial interference from the Landlord.

Storage Locker

60. SE also testified that the Landlord has failed to provide a storage locker as she was promised a storage locker under her building. SE testified that she was provided with storage in a separate building, which is connected via underground parking lot.
61. However, as SE has been provided with a storage locker, albeit not as close as the Tenant would like, I find that the Tenant has not proven that the Landlord has failed to provide this service or facility.

Bathroom Tiles

62. SE testified that on July 16, 2024 she submitted a Tarion Warranty claim alleging that the tiles in the bathroom were broken. SE submits that the Landlord inspected the damage on September 19, 2024 and was told that the handyman lacked the materials to repair the unit.
63. SE entered into evidence a photo of a single tile with a small chip.
64. While I was satisfied that there was a small chip in a single bathroom tile in the bathroom, there was minimal to no impact on the tenant caused by the chip. As a result, the claim for an abatement for this issue is denied.

Broken Elevators

65. SE testified that there have been several incidents during which elevators have broken down causing the Tenant, her occupants or her guests to become trapped in the elevator.
66. SE testified that on August 3, 2024 she and her brother became trapped in the elevator, which went into a freefall from the 8th floor to the ground during which the intercom was broken. SE testified that she was trapped in the elevator for 20-25 minutes. SE testified that the elevator was subsequently repaired within the next week or two, approximately.
67. However, on November 3, 2025, SE's sister-in-law was again trapped inside an elevator that had stopped functioning. SE testified that the elevator was restored within 3-4 days.

68. With regards to the August 3, 2024 incident, section 29(2) of the Act states that no tenant application may be made more than one year after the day the alleged conduct giving rise to the application occurred. SE filed her section 82 issues with the Board on November 4, 2025. As SE's section 82 issues were not raised with the Board within 1 year from this incident, this claim is statute barred. However, even if I were to consider this incident, there was no evidence led that the Landlord was aware of any elevator issues prior to the incident on August 3, 2024 and the Landlord took reasonable steps, repairing the elevator within a week or two according to SE's own evidence.
69. With regards to maintenance of the elevator due to the incident on November 4, 2025, I find that based on the Tenant's own evidence, the Landlord took reasonable steps to repair the elevators such that they were repaired in a timely manner and as a result, the Landlord has not breached their obligations under the Act.

Section 83 – Relief from Eviction

70. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
71. I find that it would be unfair to grant relief from eviction in the form of a conditional order. The arrears are significant and the Tenant has had sufficient time to complete the purchase and sale. I find that it would be unfairly prejudicial to the Landlord to postpone eviction any further in the circumstances.

It is ordered that:

L1 Application – Non-payment of Rent

1. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.
2. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 1. \$57,172.00 if the payment is made on or before February 28, 2026. See Schedule 1 for the calculation of the amount owing.
3. The Tenant may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenant has paid the full amount owing as ordered plus any additional rent that became due after February 28, 2026 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.
4. **If the Tenant does not pay the amount required to void this order the Tenant must move out of the rental unit on or before February 28, 2026.**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$33,757.11. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.

6. The Tenant shall also pay the Landlord compensation of \$215.47 per day for the use of the unit starting November 14, 2025 until the date the Tenant moves out of the unit.
7. If the Tenant does not pay the Landlord the full amount owing on or before February 28, 2026, the Tenant will start to owe interest. This will be simple interest calculated from March 1, 2026 at 4.00% annually on the balance outstanding.
8. If the unit is not vacated on or before February 28, 2026, then starting March 1, 2026, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
9. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord on or after March 1, 2026.

L2 Application – Agreement of Purchase and Sale has Ended

10. Even if the Tenant voids the L1 portion of this application, the tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before February 14, 2026.
11. If the unit is not vacated on or before February 28, 2026, then starting March 1, 2026, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
12. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord on or after March 1, 2026.

February 17, 2026
Date Issued

Christopher Lin
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.

In accordance with section 81 of the Act, the part of this order relating to the eviction of the Tenant expires on September 1, 2026 if the order has not been filed on or before this date with the Court Enforcement Office (Sheriff) that has territorial jurisdiction where the rental unit is located.

Schedule 1
SUMMARY OF CALCULATIONS

A. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before February 28, 2026

Rent Owing To February 28, 2026	\$56,986.00
Application Filing Fee	\$186.00
Less the amount the Landlord owes to the Tenant for an abatement	\$2,000.00
Total the Tenant must pay to continue the tenancy	\$57,172.00

B. Amount the Tenant must pay if the tenancy is terminated

Rent Owing To Hearing Date	\$33,571.11
Application Filing Fee	\$186.00
Less the amount the Landlord owes the Tenant for an abatement	\$2,000.00
Total amount owing to the Landlord	\$33,757.11
Plus daily compensation owing for each day of occupation starting November 14, 2025	\$215.47 (per day)
**Ongoing daily compensation continues to accumulate until the total amount owing (excluding costs) is \$50,000.00.	