



Order under Section 31 Residential Tenancies Act, 2006

Citation: Hollinger v Turner, 2026 ONLTB 13708

Date: 2026-02-25

File Number: LTB-T-051845-24

In the matter of: 244 RIVER RD E
KITCHENER ON N2B2G8

Between: Denise Hollinger Tenant

and

Terri-Lynn Turner Landlord

Denise Hollinger (the 'Tenant') applied for an order determining that Terri-Lynn Turner (the 'Landlord'):

- entered the rental unit illegally.
- altered the locking system on a door giving entry to the rental unit or residential complex without giving the Tenant replacement keys.
- 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 ('T2 Application').

The Tenant also applied for an order determining that the Landlord gave a notice of termination in bad faith ('T5 Application').

An Adjudicative Case Conference ('ACC') was held on March 24, 2025. The ACC was adjourned to permit the Tenant to file a motion in Small Claims Court to determine jurisdiction over an action commenced by the Landlord in that forum. The parties were directed to come back for a status hearing in 6 months.

A second ACC was held on October 9, 2025 and the application was directed to a hearing on the merits. It was noted that there may be issues with respect to some of the Tenant's claims, such as for her legal fees in Small Claims Court.

The Tenant's application was heard by videoconference on February 3, 2026.

The Tenant's Legal Representative, William Chapman, the Tenant, the Landlord's Legal Representative, Peggy Frost, and the Landlord attended the hearing.

Determinations:

1. The Landlord sought to have the Tenant's application dismissed as an abuse of process.

2. The Tenant sought an adjournment to permit determination of a motion for jurisdiction in Small Claims Court with respect to the Landlord's related action filed in that court. The Landlord opposed the Tenant's request.
3. I have addressed the Tenant's request for an adjournment first.
4. The test for an adjournment is set out in Rule 21.8 of the LTB's Rules of Procedure:

21.8 A CMH or hearing may be adjourned at the discretion of a Hearing Officer or Member where satisfied that an adjournment is required to permit an adequate hearing to be held. Relevant factors the LTB may consider in deciding the request include:

- a. the reason for the adjournment and position of the parties;
 - b. the issues in the application;
 - c. any prejudice that may result from granting or denying the request;
 - d. the history of the proceeding including other adjournments or rescheduling; and
 - e. the LTB's obligation to adopt the most expeditious method of determining the questions arising in a proceeding that affords to all persons directly affected by the proceeding an adequate opportunity to know the issues and be heard on the matter.
5. Insofar as the Tenant's T2 and T5 Applications are for claims brought under the *Residential Tenancies Act, 2006* (the 'Act') they are properly before the LTB. However, I was concerned that these applications had already been before the LTB on two prior occasions, and adjourned for essentially the same reason.
6. The Tenant submitted her claims before the LTB were in essence a counterclaim to the Landlord's action in Small Claims Court and were filed to preserve her rights should the Landlord's action be transferred to the LTB by the Small Claims Court, or should the Landlord later attempt to file at the LTB and, because the Landlord had claimed in time, albeit in an incorrect forum, they might be permitted to proceed at the LTB. Before me it was noted that this may no longer be necessary given the limitation periods under the Act.
7. It was also noted that the Tenant was reluctant to proceed with a portion of her claim prior to determination of the Small Claims Court action out of concern that it might prejudice her defence in that forum, and that one of the remedies sought related to legal costs of a proceeding in another forum.
8. In the above circumstances, I was not satisfied a further adjournment was required in order for an adequate hearing to be held. As a result, the Tenant's request for an adjournment was denied.
9. Following denial of the adjournment request, the Tenant sought to withdraw her application and the LTB consented to her request.

Request for costs

10. Following withdrawal of the Tenant's application, the Landlord sought the costs of her representative's preparation and attendances throughout the proceeding.
11. The Landlord's Representative's attended both ACCs and today's hearing. She testified she spent a total of 4 hours preparing for the 3 attendances with two hours spent preparing for the ACCs as the same material was used for both and a further two hours spent preparing for the merits hearing.
12. The Landlord's Representative also estimated each of the ACCs lasted approximately 45 minutes. On the day of the hearing before me the parties were present for 3.5 hours; although, I find the actual hearing took approximately one hour.
13. Rules 23.2 and 23.3 of the LTB's Rules provide for the award of costs to another party where there has been unreasonable conduct as follows:

23.2 A member may exercise discretion to order a party to pay another party's:

1. representation/preparation fees; and
2. other out-of-pocket expenses.

Where the LTB orders a party to pay the representation/preparation fees incurred by another party, these fees shall not exceed \$100 per hour for the services of a paid representative to a maximum of \$700.

23.3 A party who engages in unreasonable conduct which causes undue delay or expense may be ordered to pay costs to another party.

14. The LTB's *Interpretation Guideline 3: Costs* gives examples of unreasonable conduct that include bringing a frivolous or vexatious application or motion, initiating an application in bad faith, and taking unnecessary steps in a proceeding.
15. Guideline 3 further provides that generally only fees related to time spent at the hearing by a party's legal representative will be allowed; however, preparation costs may be awarded if the unreasonable conduct resulted in additional time spent preparing for the hearing.
16. The Tenant filed her application for claims under the Act within the one-year limitation. Although she wished to delay the hearing of her application until after the Small Claims Court action, in particular after jurisdiction was determined, and ultimately withdrew her application, I am not satisfied that on its face the application was frivolous, vexatious or initiated in bad faith such that it rises to the level of unreasonable conduct that would result in a costs award.
17. I also accept the Tenant's Representative's submissions that the Tenant sought to mitigate any potential undue expense to the Landlord by asking to adjourn the first ACC *sine die*; although, this request was not granted.

18. However, by the time of the second ACC and the merits hearing before me, I find it more likely than not that the Tenant knew they would be requesting a further adjournment as the motion for jurisdiction in Small Claims Court had not been determined.
19. Rule 21.1 of the LTB Rules permits a hearing to be rescheduled in advance on consent of the parties. I was not satisfied the Tenant reached out to the Landlord's Representative and asked to reschedule the second ACC or the hearing before me and, in the above circumstances, find this conduct was unreasonable.
20. The Landlord sought costs to the maximum allowable under the LTB Rules in the amount of \$700.00.
21. I am satisfied the Landlord incurred costs for her representative's preparation and attendances. However, I do not find there was unreasonable behaviour that resulted in the first ACC, and decline to award any costs for that attendance or for the time spent preparing for both ACCs.
22. Given the Landlord's position on the Tenant's request for an adjournment before me I am not sure the Landlord would have consented to a rescheduling of this hearing; although, whether they would have consented to a rescheduling of the second ACC is unknown I find this likely. In either event the Tenant would then have been in a position to demonstrate they acted reasonably.
23. Further, given the overlap with issues in the Small Claims Court action, I find it more likely than not that at least some of the Landlord's Representative's preparation work for the merits hearing will also be relevant to that proceeding. The remainder I find is the result of the Landlord's position that the Tenant's application was an abuse of process which I am not satisfied it was. In these circumstances, I do not find the preparation time incurred by the Landlord's Representative for the hearing before me rises to the level of undue.
24. In total, I find it appropriate to exercise my discretion to award costs for a total of 0.75 hours for the Landlord's Representative's attendance at the second ACC.
25. Regardless of her actual hourly rate, the LTB's Rule 23.2 provides that where a party is ordered to pay the representation and/or preparation fees incurred by another party, the fees shall not exceed \$100.00 per hour.
26. In the above circumstances, the Tenant shall be ordered to pay the Landlord \$75.00 for the Landlord's Representative's costs of attendance at the second ACC.

It is ordered:

1. The Tenant's application is withdrawn.
2. The Tenant shall pay the Landlord \$75.00.

3. If the Tenant does not pay the Landlord the full amount owing in paragraph 2 on or before March 8, 2026, the Tenant will start to owe interest. This will be simple interest calculated from March 9, 2026, at 4.00% on the balance outstanding

February 25, 2026
Date Issued

Rebecca Case
Vice Chair, 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.