



Order under the Residential Tenancies Act, 2006

Citation: Neufeld v Amiraco Properties Inc., 2026 ONLTB 6729

Date: 2026-01-23

File Number: LTB-T-034827-22, LTB-T-043002-23
and LTB-L-033387-24

In the matter of: 607, 475 BRUCE AVE
WINDSOR ON N9A6W9

Between: Cordelle Scott Neufeld Tenant
Michael Thomas Neufeld

And

Amiraco Properties Inc. Landlord

AMENDED ORDER

There were a number of unintentional typographical errors noted in the order issued on January 23, 2026.

Cordelle Scott Neufeld and Michael Thomas Neufeld (the 'Tenants') applied for an order determining that Amiraco Properties Inc. (the 'Landlord') breached its obligations under the *Residential Tenancies Act, 2006* (the 'RTA')—LTB-T-034827-22 and LTB-T-043002-23.

The Landlord applied for an order terminating the tenancy and evicting the Tenants because they did not pay rent—LTB-L-033387-24.

In addition: (a) Landlord also filed an L2/N5 application against the Tenants—LTB-L-034181-22; and (b) the Tenants filed another T2 application against the Landlords in which they asserted, essentially, that the L2/N5 application was retaliatory—LTB-T-045612-23. Those applications were withdrawn. **[DOC-2714401 and DOC-2714323]**

I heard these applications by videoconference on multiple days, including February 24, September 8 and October 20, 2025. Milan Seres represented the Landlord.

I heard evidence from Cordell Neufeld. Bobby Paradinha—a contractor hired by the Landlord—Jeffrey Senay—the maintenance coordinator for the complex—and Sarah Kjarsgaard—the

resident manager of the complex—all testified for the Landlord. I also reviewed and considered the documents uploaded to TOP by the parties.¹

Determinations:

I. LTB-T-034827-22

1. This application arose out of an order issued by the LTB on August 12, 2022 in SWL-43874-20 (the '12 Apr 22 Order'). **[DOC-370268]** A request by the Landlord that the LTB review the 12 Apr 22 Order was denied.
2. LTB-L-033387-24 is based on the failure of the Tenants to pay rent. The Tenants assert that the Landlord did not address the issues identified in the 12 Apr 22 Order and that they are entitled to a continuation of the abatements provided to them by the 12 Apr 22 Order. In LTB-T-034827-22 and LTB-T-043002-23, the Tenants request, essentially, a continuation of the abatements ordered by the 12 Apr 22 Order.
3. SWL-43874-20 was an L1 application based on the assertion that the Tenants had not paid rent. On that application, the Tenants raised maintenance-related issues under section 82 of the *Residential Tenancies Act, 2006* (the 'RTA') and requested abatements. The LTB found that the Tenants were entitled to abatements for certain of the issues identified by the Tenants that reduced the rent owed. However, the Member did not direct that the Landlord address the issues. Nor did the Member order that the Tenants were entitled to an ongoing abatement until the issues were addressed.
4. The only issues before me were: (a) were the issues identified in the 12 Apr 22 Order addressed and raised by the Tenants on this application addressed; and, if so, (b) when they were addressed. I indicated to the parties that I was not prepared to reconsider: (a) the factual findings in the 12 Apr 22 Order in terms of whether or not there was merit to the issues raised by the Tenants; or (b) the quantum of the abatement(s) provided by the 12 Apr 22 Order, although, as described below, I am 'ramping up' one of the abatements to ensure that the Landlord addresses the issue.
5. The issues identified by the Tenants on this application and the abatement awarded in the 12 Apr 22 Order for those issues are:

Fire Separation Door	2%
Bathroom	2%
Kitchen	15%
Windows and Patio Doors	5%

¹ In total, there were over well over 100 individual documents uploaded by the parties, which comprised hundreds of pages.

6. After hearing the evidence and reviewing the documents, I find:
 - (a) the issue with the entry door to the unit—the fire separation door—was addressed in January of 2024;
 - (b) the issues with the bathroom were fully addressed by the end of September of 2022; and
 - (c) the issues with the kitchen were fully addressed by the end of March 2025.
7. I also find that: (a) the Landlord has not addressed the issues with the windows in the unit; and (b) the Tenants are entitled to an ongoing remedy for the windows².
8. I do not accept the assertion by the Landlord that there was never an issue with the windows. In SWL-43874-20, the Member found there was an issue with the windows—the seals were broken—and I am not going to revisit that finding.
9. The Landlord did undertake some work on the windows—the Landlord chalked around the windows. However, I find that the work done by the Landlord was not aimed at addressing the issue identified by the Tenants—the broken seals. For that reason, I find that the Landlord did not address the issue with the windows in an appropriate or effective manner.
10. The Landlord asserted that the Tenants were partially responsible for it not addressing the windows because there was excessive clutter in the unit.
11. I do not accept that assertion.
12. Mr. Senay referred to pictures of the interior of the unit and asserted they showed excessive clutter, which prevented the Landlord from dealing with the windows. **[DOC-4549738 and DOC-4549743]** I do not accept this argument. The pictures show items VERY neatly arranged on shelving units. The Tenants asserted, which I accept, that the items on the shelves were from the kitchen cabinets and had been removed to permit the Landlord to address the issues with the kitchen.
13. Ms Kjarsgaard asserted the Tenants had denied the Landlord access to the unit. While I accept that there were occasions when the Tenants denied the Landlord access to the unit, in none of the instances when the Tenants refused to allow the Landlord into the unit was the purpose of the entry to make repairs to the windows. The evidence was that the Landlord was able to measure for replacement windows and to do work on the windows—which work I have found was not appropriate or effective.
14. On September 8, 2025, I told the parties that I was contemplating ordering the Landlord to replace the windows. The Landlord indicated that replacing the windows would be expensive and it had not had an opportunity to put forward evidence to establish that there was a way to address the issue with the windows aside from replacing them.

² The Member did not break out the 5% abatement as between the windows and the patio doors and I see no reason to attempt to do that at this stage. The 5% was, in my view, intended to apply to the 'global' issue.

15. I adjourned the hearing to Monday, October 20, 2025³ to permit the Landlord to investigate what options were available to address the issue with the windows. I verbally directed: (a) the Tenants were to allow entry into the unit by up to three third-party(ies) to assess the windows; and (b) that the Landlord was to obtain a (written) report from a third-party concerning the options available to address the issue with the windows, which report was to be provide to the Tenants and uploaded to TOP.
16. The Landlord did not follow my direction. Instead, on the afternoon of Friday, October 17, 2025, the Landlord requested that the LTB to issue a summons for Kevin Wills who was described by the Landlord on the request as ‘the operations manager of a glass company who has the professional expertise to provide an opinion on the status of the windows in the...unit’. **[DOC-6609988]** I did not sign the summons for Mr. Wills.
17. I had not adjourned the hearing on September 8, 2025 for a single purpose: to permit the Landlord to obtain a written report concerning the options available to address the issue with the windows without replacing them. The purpose of the adjournment was not to permit the Landlord to provide further testimony with respect to the windows. There was more than sufficient time for the Landlord to call witnesses to testify concerning the windows.
18. There was evidence that suggested that the Landlord understood that the windows would have to be replaced. There was, for example, evidence that contractors hired by the Landlord had attended at the unit multiple times to measure the windows for replacement and Mr. Senay testified that the Landlord had looked for quotes to replace the windows. I find that it is more likely than not that the Landlord did not replace the windows because of the cost.
19. On October 20, 2026, Mr. Seres argued that an (ongoing) abatement was a sufficient incentive to address the issue with the windows and an order directing the Landlord to replace the windows is not necessary. I disagree. It has been **over three years**, and the Landlord has still not remedied the issue with the windows.
20. I find that: (a) the way to remedy the issue with the windows is to replace them; and (b) the Tenants are entitled to an order under subsection 30(1)4 of the RTA that the Landlord replace the windows in the unit.
21. For the first time at the hearing on October 20, 2025, Mr. Seres asserted that he was not only the legal representative of the Landlord but also an employee and ‘agent’ for the Landlord such that he could provide the LTB with evidence in the absence of a representative of the Landlord—there was no representative of the Landlord in attendance except Mr. Seres. This happened in response to my inquiry as to whether the Landlord was aware of how long it might take to have the windows in the unit replaced, to which Mr. Seres purported to provide testimony that it would take until the Spring of 2026—**four years** since the LTB first found that there was an issue!!

³ I note that the request that the Landlord be required to replace the windows was included in the remedies requested by the Tenant: DOC-2666155.

22. I have serious concerns about Mr. Seres purporting to act as both the Landlord's legal representative and as a fact witness for the Landlord.
23. There is, in my view, an inherent tension between the role of a legal representative as an advocate for their client and the legal representative acting as a witness to provide fact evidence upon which the LTB is intended to rely in determining an application.
24. Mr Seres is a lawyer.
25. *The Rules of Professional Conduct say:*

5.2-1 A lawyer who appears as advocate shall not testify or submit their own affidavit evidence before the tribunal unless
 - (a) *permitted to do so by law, the tribunal, the rules of court or the rules of procedure of the tribunal, or*
 - (b) *the matter is purely formal or uncontroverted.*
26. The Commentary to Rule 5.2-1 of the *Rules of Professional Conduct* says:

A lawyer should not express personal opinions or beliefs or assert as a fact anything that is properly subject to legal proof, cross-examination, or challenge. The lawyer should not in effect appear as an unsworn witness or put the lawyer's own credibility in issue. The lawyer who is a necessary witness should testify and entrust the conduct of the case to another lawyer. There are no restrictions on the advocate's right to cross-examine another lawyer, however, and the lawyer who does appear as a witness should not expect to receive special treatment because of professional status.
27. Permitting a legal representative to provide evidence is discretionary.
28. Rule 1.6 of the LTB's *Rules of Procedure* says:

1.6 In order to provide the most expeditious and fair determination of the questions arising in any proceeding the LTB may:...
 - (q) *exercise its discretion to permit a party's legal representative to give evidence where appropriate;*
29. In my view, the evidence of a legal representative should not be relied upon as proof of a fact unless that fact is undisputed. In this case, the fact upon which Mr Seres purported to provide evidence—how long it would take the Landlord to replace the windows—was highly contentious.
30. The foregoing being said, I am giving the Landlord until April 30, 2026—four years after the LTB found there was an issue—to replace the windows in the unit.
31. I am also going to 'scale up' the abatement to which the Tenants are entitled to ensure the Landlord is incentivized to comply with my order because it is obvious that the Landlord requires serious 'incentives' to comply with its obligations.

32. The 5% abatement awarded in the 12 Apr 22 Order will continue until the earlier of April 30, 2026 and the month in which the windows are replaced.
33. If the windows are not replaced by April 30, 2026, the abatement for the windows will increase to 25% beginning on May 1, 2026 and continuing until the earlier of July 31, 2026 and the month in which the windows are replaced. If the windows are not replaced by July 31, 2026, the abatement will increase to 50% beginning on 1 August 2026 and continuing until the month in which the windows are replaced.
34. The foregoing means the Tenants are entitled to the following abatements

Fire Separation Door	2% from 1 March 2022 to 31 January 2024
Bathroom	2% from 1 March 2022 until 1 August 2022
Kitchen	15% from 1 March 2022 until 1 April 2025
Windows	5% from 1 March 2022 until the earlier of 30 April 2026 and the month in which the windows are replaced. If the windows are not replaced by 30 April 2026, the abatement for the windows will increase to 25% beginning on 1 May 2026 and continuing until the earlier of 31 July 2026 and the month in which the windows are replaced. If the windows are not replaced by 31 July 2026, the abatement will increase to 50% beginning on 1 August 2026 and continuing until the month in which the windows are replaced.

35. I do not think that it is appropriate to order that the Landlord not increase the rent until the windows are replaced. The abatement that I am awarding is, in my view, sufficient.
36. I also decline to award the other remedies requested by the Tenants on DOC-2666155.
37. Even though the Tenants were successful on LTB-T-034827-22, I am not ordering that the Landlord reimburse the Tenants for the filing fees they paid. That is because by raising irrelevant issues and filing unnecessary documents, the Tenants caused the hearing of these applications to take much longer than should have been the case. I also note that many of the issues raised by the Tenants were: (a) outside of the jurisdiction of the LTB; and/or (b) what I would consider 'petty' or inconsequential. The Tenants, who represented themselves, seemed intent on raising before the LTB every perceived injustice inflicted upon

them by the Landlord. That resulted in what should have been a ½-day hearing taking multiple days.⁴

III. LTB-T-043002-23

38. On this application, the Tenants asserted: (a) there was an issue with the Landlord's accounting as to rent owed by the Tenants based on the amounts paid into the LTB by the Tenants; (b) the Landlord charged them an illegal electricity recovery fee; and (c) the Landlord did not properly account for interest on their rent deposit.
39. The issue identified by the Tenants concerning the Landlord's accounting related to the fact that the interest on their rent deposit is not reflected on the tenant ledger maintained by the Landlord.
40. There is, in my view, no serious issue with the accounting by the Landlord for the Tenants' rent deposit.
41. A landlord is entitled to either: (a) pay interest to the tenant; or (b) apply the interest to increase the tenant's deposit so it corresponds to the rent—the interest a landlord is required to pay on a rent deposit is equal to the percentage amount by which the landlord is entitled to increase the rent. **[RTA, ss. 106(6) and (7)]** The applicable tenancy agreement expressly contemplates that interest will be applied to increase the Tenants' rent deposit. **[DOC-5085019 Item 1]**
42. Interest must be properly accounted for when a tenancy comes to an end **[See, for example, RTA, s. 78(4), 88.2(3), 89(2)]** but the RTA does not require that a landlord maintain its financial books and records in any particular way. How a landlord keeps track of interest on tenant deposits is an internal matter
43. With respect to the 'electricity recovery fee', the Tenants assert that the Landlord's 'per unit' fee charged by the Landlord for window air conditioning units is 'illegal'.
44. The Landlord appears to have increased the per unit charged to all tenants in the complex and to have increased the fee charged to the tenants to reflect that they have installed three window air conditioning units. The Tenants appear to assert that they have the right to negotiate how much they pay to the Landlord to have window air conditioning units and have to pay only the fee to which they agree. I do not agree.
45. Subsection 123(1) of the RTA says, in part:

123 (1) A landlord may increase the rent charged to a tenant for a rental unit as prescribed at any time if the landlord and the tenant agree that the landlord will add any of the following with respect to the tenant's occupancy of the rental unit:

⁴ I note that some of the statements made by the Tenants appeared to be false or at least misleading. In LTB-T-045612-23, for example, the Tenants asserted that the suspension in the State of Colorado of a lawyer acting for the Landlord resulted from a complaint made by them but the publicly available information suggests that the suspension resulted from a drug-related charge in Colorado.

...

2. A prescribed service, facility, privilege, accommodation or thing.

46. The General Regulations contemplate extra electricity as being among the things that the parties can agree will be provided by a landlord. **[General Regulations, s. 16(1)]** In this case the applicable tenancy agreement contemplates that the Landlord must agree to the installation by the tenants of window air conditioning units and that the Landlord can charge a fee in exchange for such agreement. **[DOC-5085019 Item 1]** I do not accept the assertion by the Tenants that they are required by the relevant tenancy agreement to pay a 'fixed charge' of \$150.00 no matter how many air conditioners they have in the unit. I note that the Tenants' own evidence is that they were paying a fee of \$173.74.
47. Subsection 16(2) of the General Regulations says:
- 16 (2) If there is an agreement under subsection 123 (1) or section 125 of the Act, the maximum increase in rent or minimum decrease in rent shall be the actual cost to the landlord of the service, facility, privilege, accommodation or thing, other than floor space, that is the subject of the agreement or, where the actual cost to the landlord cannot be established or where there is no cost to the landlord, a reasonable amount based on the value of the service, facility, privilege, accommodation or thing.***
48. The actual cost of the additional electricity that results from the Tenants' air conditioning units cannot be determined. As I understand, the units in the complex are not individually metered. The issue is, then, whether the amount charged by the Landlord is reasonable.
49. The LTB has recently considered the per-unit fee charged by the Landlord and determined it to be reasonable. *Amiraco Properties Inc. v Kozak* **[2025 ONLTB 13377 (CanLII)]**
50. While I appreciate that I am not bound by the determination in *Amiraco v Kozak*, I see to reason to vary from that finding by the Member in that order. The per unit fee charged by the Landlord increased by 15%--from \$173.74 to \$200.00—which I find to be reasonable.
51. The core of the issue raised by the Tenant is not that the 'per unit' fee increased, but that the Landlord began to charge them for the three units they have installed. In my view, the Tenants have, in my view, two choices: (a) pay the charges demanded by the Landlord; or (b) remove some or all of their window air conditioners.
52. I note that, similar to in LTB-T-034827-22 and LTB-T-043002-23, the Tenants requested remedies on this application were beyond the jurisdiction of the LTB. **[See DOC-2666141]** Even if I were to have found that there is merit to the assertions made on this application—there is not—I would not have awarded most of the remedies requested by the Tenants.

IV. LTB-L-033387-24

53. I am satisfied that the Tenant did not pay rent—the Tenants admit they did not pay rent. That means that the Landlord is entitled to an order under section 69 of the RTA terminating the tenancy and evicting the Tenants. However, before making such an order, I am required to consider whether (a) having regard to all of the circumstances or the application should be refused based on fairness; or (b) the eviction should be postponed. **[RTA, s.83(1)]** The

RTA also requires me to dismiss the Landlord's application if I find that the Landlord is in serious and ongoing breach of the RTA. **[RTA, s. 83(3)]**

54. In this case, I would be inclined to dismiss the application based on fairness. I also think there is a case to be made that the failure of the Landlord to address the windows for **over three years** amounts to a serious breach of the RTA.
55. I do not, however, want to give the Tenants the impression that the LTB in any way condones their failure to pay rent. The Tenants were required to pay rent and, to the extent that it is necessary for me to do so, I would 'convert' the Landlord's application to an application for arrears under section 87 of the RTA and make an order that the Tenants pay the arrears. However, I am satisfied that, with the benefit of this order, the Tenants and the Landlord will be able to determine the rent owed by the Tenants and the amount of the go-forward rent payable by the Tenants. For that reason, I am not making an order finally resolving LTB-L-033387-24 at this point in time.
56. If the Tenants pay the arrears owed, the Landlord should withdraw LTB-L-033387-24. If: (a) within fifteen days, the parties are unable to agree on the rent owed by the Tenants; or (b) within 30 days the Tenants have not paid the arrears, the Landlord can write to me care of the LTB and I will schedule a hearing to resolve any issues.
57. The parties should be aware that if I find **either of them** acts unreasonably in terms of agreeing on the rent owed, I will take submissions concerning whether that party ought to be required to pay the costs of the other and the costs incurred by LTB in resolving the dispute, which costs will be substantial.

It is ordered that:

1. LTB-T-043002-23 is dismissed.
2. LTB-L-033387-24 is adjourned. A hearing will be scheduled only if: (a) the parties cannot agree on the rent to be paid by the Tenants; or (b) the Tenants do not pay the agreed-upon rent.
3. On or before April 30, 2026, the Landlord shall replace all of the windows in the unit.
4. The Landlord shall pay to the Tenants the following abatements, which are to be deducted from the rent owed and payable by the Tenants:

Fire Separation Door	2% from 1 March 2022 to 31 January 2024.
Bathroom	2% from 1 March 2022 until 1 August 2022.
Kitchen	15% from 1 March 2022 until 1 April 2025.
Windows	5% from 1 March 2022 until the earlier of 30 April 2026 and the month in which the windows are replaced.

	If the windows are not replaced by 30 April 2026, the abatement for the windows will increase to 25% beginning on 1 May 2026 and continuing until the earlier of 31 July 2026 and the month in which the windows are replaced. If the windows are not replaced by 31 July 2026, the abatement will increase to 50% beginning on 1 August 2026 and continuing until the month in which the windows are replaced.
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February 25, 2026
Date Amended

E. Patrick Shea
Vice Chair, Landlord and Tenant Board

January 23, 2026
Date Issued

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.