



Order under Section 21.2 of the Statutory Powers Procedure Act and the Residential Tenancies Act, 2006

Citation: Amiraco Properties Inc v Kriz, 2026 ONLTB 19709

Date: 2026-03-11

File Number: LTB-L-012915-24-RV

In the matter of: 403, 1445 OUELLETTE AVE
WINDSOR ON N8X1K1

Between: Amiraco Properties Inc Landlord

And

Suzanne Kriz Tenant

Review Order

Amiraco Properties Inc (the 'Landlord') applied for an order to terminate the tenancy and evict Suzanne Kriz (the 'Tenant') because the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant.

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was resolved by order LTB-L-012915-24 issued on November 17, 2025.

On January 7, 2026, the requested a review of the order and that the order be stayed until the request to review the order is resolved.

On January 7, 2026, interim order LTB-L-012915-24-RV-IN was issued, staying the order issued on November 17, 2025.

The review request was heard by videoconference on February 9, 2026.

The Landlord's representative Milan Seres and the Tenant's representative Christopher Hall attended the hearing.

Determinations:

1. The Landlord's application concerns unpaid seasonal air conditioning fees ('AC fees'). The Board found that the Landlord was entitled to charge the fees. In arriving at that determination, the Board considered section 123 of the *Residential Tenancies Act* which says in part that a landlord may increase the rent charged to a tenant at any time if the landlord and the tenant agree that the landlord will add a prescribed service, facility,

privilege, accommodation or thing. The Board also considered that section 16(1) of O. Reg. 516/06: GENERAL ('the regulation') establishes that one of those prescribed services is extra electricity for an air conditioner. The Board ultimately concluded that the amount charged is reasonable in accordance with section 16(2) of the regulation and that the Tenant substantially interfered with the Landlord's lawful right, privilege, and interest by failing to pay the fees.

2. The Tenant submits that the Board made a serious error in allowing the application to proceed because if the justification for the charge is section 123 of the Act which concerns increases in rent, then the charges can only be claimed on an application about rent arrears, not an application about substantial interference with the Landlord's lawful right privileges or interests. The Tenant disputes the Board's finding that the Tenant agreed to add the prescribed service and the finding that a new service was added. Finally, the Tenant submits that the Board made serious errors in interpreting and applying subsection 16(2) of the regulation in determining the amount that can be charged for the fees.
3. For the following reasons I am not satisfied that there is a serious error in the order.
4. There is conflicting case law regarding whether the non-payment of AC fees can constitute substantial interference with a landlord's lawful, right, privilege or interest and whether a notice of termination pursuant to section 64 of the Act or a claim for compensation pursuant to section 88.1 of the Act can be filed regarding AC fees.
5. The decision under review is not an outlier decision. It is one of four decisions that I am aware of that have arrived at a similar result. The Board decisions in *Amiraco Properties Inc. v Spratt*, 2024 ONLTB 94598, *Amiraco Properties Inc. v Kozak*, 2025 ONLTB 13377, and order LTB-L-056777-24 issued Jan 27, 2025 (unreported), support that that AC fees can constitute substantial interference and ground applications under sections 64 and 88.1 of the Act.
6. However, the Board decision of *AC Management Inc v Goulden*, 2023 ONLTB 71413, found that AC charges can only be claimed as rent arrears. In that decision the Board dismissed the landlord's application regarding substantial interference.
7. There are also decisions of the Board that have considered AC charges as part of a rent arrears application without consideration of whether the charges could also be claimed as substantial interference. For example, *Amiraco Properties Inc. v Douglas*, 2025 ONLTB 50651 and *Lamontagne v Gaulin*, 2023 ONLTB 66796. The Divisional Court in *Graham v H & R Property Management Ltd.*, 2017 ONSC 1695 dismissed an appeal of a Board decision requiring the tenant to pay arrears of rent relating to the provision of electricity. The Court did not comment on whether the application could have proceeded as a claim for substantial interference as opposed to arrears of rent.
8. I am not satisfied that the decision under review is clearly wrong or unreasonable. That the non-payment of a fee the Landlord is entitled to charge substantially interferes with their lawful rights, privileges, and interests is a reasonable conclusion. Section 1 of the Act establishes that one of the purposes of the Act is to protect tenants from unlawful rent increases. The Board's decision is consistent with the rent increase rules in the Act. Section 123 and the regulation provide that costs for extra electricity for an air conditioner can be charged if the criteria of those provisions are met. The Landlord is not using an

application about substantial interference to circumvent the rent increase rules or to achieve a result that would be impossible with a rent arrears application. That the fee can be claimed in one way under the Act does not necessarily mean it cannot be claimed in another. Additionally, the Board's conclusion does not conflict with any binding caselaw that I am aware of and there are other similar decisions that have been made by the Board.

9. The Tenant argues that the order is inconsistent with the Act's rules surrounding rent increases and that the order should have applied section 116 of the Act. That section requires 90 days notice, among other requirements, be met before rent can be increased. The Board's decision is not inconsistent with the rules regarding rent increases in the Act because section 123 establishes that rent can be increased *at any time* if the landlord and tenant agree to add a prescribed service. That is what occurred in this case.
10. The Tenant disputes the Board's finding that the Tenant agreed to add the prescribed service and the finding that a new service was added. The Board provides sufficient and reasonable reasons for why the Board determined that the parties agreed to add a service. The Board considered the provision in the lease that says an air conditioner will not be used without paying the required charge, that the Tenant received notice of the seasonal charges, and continued to use the AC. The Board also notes that the decision is consistent with other decisions of the Board regarding this issue.
11. The Tenant submits that the Board misapplied and misinterpreted section 16(2) of the regulation. That section governs the amount that rent can be increased when a prescribed service is added under section 123 of the Act. The section says in part that the maximum increase in rent shall be the actual cost to the landlord of the service 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.
12. The Tenant submits that it was an error for the Board to accept lump sum charges for the presence of an AC unit, not its actual electricity usage, and that the Board accepted these charges despite an absence of evidence showing the actual cost. The Tenant submits that the Board relied on assumptions about the cost of summer AC use rather than actual evidence. The Tenant points to *Amiraco Properties Inc. v Douglas*, 2025 ONLTB 50651 where at paragraph 16 the Board states that while calculating the exact cost of the increased electricity use from an AC might be difficult, it is not impossible. The Board also outlines evidence they would have expected to see to justify the charge.
13. The Tenant states in the review request that the Landlord "admitted the building is not individually metered and therefore cannot determine actual AC usage". The regulation specifically contemplates that when the actual cost of a service cannot be calculated that a reasonable amount based on the value of the service can be charged. Paragraph 23 of the order provides reasonable reasons for why the Board determined that the amount charged by the Landlord was reasonable. No serious errors were made in this regard. That another decision of the Board came to a different conclusion on similar evidence does not itself demonstrate that this order contains a serious error.
14. A review is not an opportunity to reargue an application that has been finally determined. The Divisional Court in *Browne v. Henley Crescent*, 2026 ONSC 455 recently concluded that the Board made an error in law in conducting a review in the absence of a serious

error. As in that case, the decision under review has the hallmarks of a reasonable decision. Disagreeing with a result is not sufficient to make a decision irrational. As the Supreme Court of Canada has pointed out, reasonable people can disagree; the fact that they do is not sufficient to make a decision unreasonable: see *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, at para. 83.)

It is ordered that:

1. The request to review order LTB-L-012915-24 issued on November 17, 2025, is denied. The order is confirmed and remains unchanged.
2. The interim order issued on January 7, 2026, is cancelled. The stay of order LTB-L-012915-24 is lifted immediately.

March 11, 2026
Date Issued

Amanda Kovats
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.