



Order under Section 31 Residential Tenancies Act, 2006

Citation: HITTI v FARAONE, 2026 ONLTB 15737

Date: 2026-03-13

File Number: LTB-T-071969-24

In the matter of: 402, 500 WELLINGTON STREET WEST
TORONTO ON M5V1E3

Between: Ronald Hitti
Raja Farah
Tenants

And

Raymond Faraone
Landlord

Ronald Hitti and Raja Farah (the 'Tenants') applied for an order determining that Raymond Faraone (the 'Landlord') did not give the Tenants 72 hours to remove their property from the rental unit or from some place close to the rental unit after the Sheriff evicted the Tenants.

This application was heard by videoconference on October 27, 2025.

The Landlord's Representative, Adam Zweig, and the Tenant, Ronald Hitti, attended the hearing.

Determinations:

1. On the basis of the evidence before me, the Tenants' application will be dismissed for the reasons that follow. On further consideration of the matter, having heard the general submissions of the parties and having read the materials referred to by the Landlord's representative, I have determined that the application must be dismissed as the issue raised by the Tenants have been previously determined by the Superior Court of Justice.

Background Facts

2. The Landlord pursued an order for arrears of rent and a termination of the tenancy before the Ontario Superior Court of Justice (Superior Court), as the Tenants have failed to pay the rent and the arrears amounts claimed were beyond the monetary jurisdiction of the Board.

3. It was uncontested that the Landlord obtained a judgement for unpaid rent in the amount of \$115,165.66, the termination of the tenancy and a writ of possession, with a direction to the Sheriff of the City of Toronto to enforce eviction on or after March 17, 2023. This order was issued on February 27, 2023.
4. Subsequent to the February 27, 2023, order, there were several unsuccessful motions and challenges to the order in Superior Court and at the Court of Appeal for Ontario. Ultimately, the Tenants were evicted from the unit on or about August 30, 2023, pursuant to the Superior Court writ of possession.
5. The Tenants have filed this application before the Board pursuant to section 41 of the *Residential Tenancies Act, 2006* (Act), alleging that the Landlord improperly disposed of his property contrary to section 41, by failing to provide him with 72 hours to remove his belongings from rental unit, after the eviction was enforced by the Sheriff.
6. The Landlord has put before the Board a number of the prior orders and endorsements of the Superior Court and the Court of Appeal resulting from their application for recovery of rent arrears and termination of the tenancy. [DOC-6534015] Included in those materials is the Endorsement of Justice Chalmers, dated August 24, 2023, resulting from an appearance before the Court, attended by both the Tenant, Ronald Hitti, and the Landlord's counsel. The Landlord's representative advised that the date on this endorsement contains a typographical error and should be reflected as September 5, 2023
7. The endorsement of Justice Chalmers states the following:

Mr. Hitti now seeks to schedule an urgent motion to allow him remove property from the premises. He states that he left the premises on August 30, 2023. (I note that he did not comply with the direction set out in my endorsement on August 24, 2023 that he was to vacate the premises by August 28, 2023.) Mr. Hitti did not remove his furniture and personal possessions when he left the premises. He states that he tried to arrange for movers after my endorsement on August 24, 2023, but they were not available until after he left the premises on August 30, 2023.

Mr. Hitti states that he is entitled to 72 hours to remove his possessions. Counsel for the Respondent argues that Mr. Hitti has had substantially more than 72 hours to remove his possessions. He was served with the Notice to Vacate on August 1, 2023, but did not take any steps to retain movers at that time. He also had 4 days after my endorsement to vacate the premises by August 28, 2023 but failed to do so. He left the premises on August 30, 2023 which was 6 days from the date I directed Mr. Hitti to vacate the premises. Counsel for the Respondent also argues that in these circumstances, Mr. Hitti is deemed to have abandoned his possessions and as a result, the possessions are subject to the Respondents' rights pursuant to the Executions Act.

Legal Analysis

8. The Tenants have filed an application to recover damages for the loss of property as a result of the Landlord failing to provide him with 72 hours to remove his property from the rental unit after his eviction. On the evidence before me, I find that this claim was previously raised, arguments were made by the parties, and it was determined by the Superior Court. I make this finding based on the endorsement of Justice Chalmers quoted above and the submissions of the parties.
9. Justice Chalmers specifically addressed the Tenants' 72-hour claim in relation to removal of the Tenants' property and made findings on the issue and explicitly denied the claim. That proceeding was between the same parties, with the same claim raised, and a final determination was rendered by the Court.
10. Based on the principles of res judicata and issue estoppel, the Tenants may not now raise this issue again before the Board as the matter has been heard and determined by the Superior Court. The Superior Court's proceeding resulted in a final decision, which was not successfully appealed.
11. Issue estoppel precludes a party from raising issues in a proceeding that were already adjudicated in a previous proceeding, on the basis that litigation should have finality, inconsistent results should be avoided, and hearing resources should not be wasted. These principles guard against an abuse of process by preventing parties from trying to re-litigate the same facts in order to get a different result. I find that these principles apply to the present case, as they meet the test as established by the Supreme Court of Canada.
12. The test for issue estoppel was set out by the Supreme Court in *Angle v. Minister of National Revenue*, 1974 CanLII 168 (SCC), [1975] 2 S.C.R. 248 at p. 254:
 - (1) that the same question has been decided;
 - (2) that the judicial decision which is said to create the estoppel was final; and,
 - (3) that the parties to the judicial decision or their privies were the same persons as the parties to the proceedings in which the estoppel is raised their privies.
13. Having considered the test for issue estoppel and the evidence before me, I find that the application before the Board raises the same issue as that presented before the Superior Court, that the Superior Court issued a final decision, and the parties to the application are the same. Therefore, I find that the test has been met for issue estoppel and the Tenants' application must be dismissed. If the Tenants are dissatisfied with the Superior Court's order or is seeking a different result than that ordered by the Court, the route of appeal of a court order is not to the Board.

Costs Against the Tenants

14. At the hearing the Landlord's representative requested that the Board order costs against the Tenants.

15. Pursuant to the Board's *Interpretation Guideline 3*, costs are only awarded when a party acts unreasonably in the proceedings or if their conduct is unreasonable and causes undue expense or delay. Although I am not bound by the Guideline, I find it persuasive in the circumstances of this case.
16. In my view, I don't find that it would be appropriate to order costs against the Tenants.
17. This is the first application brought by the Tenants with respect to this issue, and I cannot conclude that the Tenants acted unreasonably in the course of the hearing.
18. The Landlord's request for costs is therefore denied.

It is ordered that:

1. The Tenants' application is dismissed.

March 13, 2026
Date Issued

Colette Myers
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.

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