



Order under Section 31 Residential Tenancies Act, 2006

Citation: Alzate v Sarker, 2026 ONLTB 20257

Date: 2026-03-09

File Number: LTB-T-091411-23

In the matter of: Basement Apt, 208 Randall Cres
Scarborough ON M1M3K2

Between: John Alzate Tenants
Maria Seccia

And

Niranjan Sarker Landlord

John Alzate and Maria Seccia (the 'Tenants') applied for an order determining that Niranjan Sarker (the 'Landlord'):

- substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenants or by a member of their household.
- harassed, obstructed, coerced, threatened or interfered with the Tenants.

This application was heard by videoconference on March 3, 2026.

The Tenant's Legal Representative, Syed Javed Hussain and the Tenant, John Alzate attended the hearing.

The Landlord attended the hearing. The Landlord's daughter, Hrituporna Sarke attended as a representative for her father.

Preliminary Issue:

1. I explained to the Tenant's Legal Representative that some of the allegations on the T2 application were outside the time limitation period. He stated that he was aware of that, and they were only providing them as context to the application.
2. I explained to the Tenant's Legal Representative that some of the allegations on the T2 application appeared to be maintenance related. I explained to him that there is a different test for a T2 and a T6 application, and he was given the opportunity to amend the maintenance related allegations to a T6 application. He asserted that he wished to pursue

the maintenance related allegations on the T2 application and that they interfered with the Tenant's reasonable enjoyment, and not amend to a T6 application.

3. I explained to the Tenant's Legal Representative the T2 application also alleges that there was an illegal rent increase, and I stated that I would not be hearing submissions related to the illegal rent increase regarding whether the rent increase was illegal. He stated that they wished to speak to the illegal rent increase in the context that the Landlord harassed the Tenants to pay it, which I accepted.

Amending the Application:

4. The Tenant's Legal Representative requested an amendment to Remedy 1, as he stated that because of the jurisdictional issue of this application being a T2 application and not a T1 application, the Tenants will not be requesting a Rent Abatement in the amount of \$15,200.00, which represents overpayment on an imposed rent increase. He requested an amendment to change the rent abatement amount from \$15,200.00 to \$12,480.00, which represents 20% of the rent paid for 39 months for the harassment and substantial interference of reasonable enjoyment.
5. The Landlord opposed the amendment as the Tenants did not file an amended application to the Board or to them.
6. I granted the request to amend the application to the lesser amount and find the Landlord knew the case against them and could reasonably speak to the remedy in a lesser amount. The matter was stood down to allow the Landlord additional time to prepare submissions for this amended amount.
7. The Tenants Legal Representative also requested an amendment to remove Remedy 2 and Remedy 3 from the application, and I consented to this request.

Determinations:

1. As explained below, the Tenants did not prove the allegations contained in the application on a balance of probabilities. Therefore, the application is dismissed
2. On November 25, 2023, the Tenants filed a T2 application (T2) pursuant to s. 29(1) of the *Residential Tenancies Act, 2006* (the 'Act') alleging that the Landlord has substantially interfered with the Tenants reasonable enjoyment and harassed the Tenants. The allegations on the application were that the Landlord harassed and threatened the Tenants to pay an illegal rent increase and the Landlord interfered with the Tenants reasonable enjoyment related to maintenance issues.
3. The Tenants are seeking a rent abatement in the amount of \$12,480.00.
4. The Tenants are no longer in possession of the rental unit, having vacated on March 8, 2025.

Tenant's Evidence

Threats/Harassment- Illegal Rent Increase

5. The Tenant, John Alzate testified the Tenants moved into the rental unit in November of 2011.
6. He testified at the time they moved in their lawful monthly rent was \$900.00 per month.
7. He testified that sometime in 2013, the rent increased from \$900.00 to \$1000.00.
8. He testified sometime in 2016, the rent increased from \$1,000.00 to \$1,200.00.
9. He testified sometime in 2020, the Landlord wanted to raise the rent from \$1,200.00 to \$1,800.00, however they agreed on an amount of \$1,600.00.
10. The Tenants later became informed that the rent increase was illegal, and they were never provided an N1 notice.
11. He testified in 2020, when the Landlord told them about the rent increase, he explained to the Landlord that this was an illegal rent increase, and that there was also a rent freeze during that time.
12. He testified the Landlord told them if he did not comply with the rent increase they would have to vacate the rental unit.
13. He stated that this was stressful for him and his wife, as at the time his wife was not working. He states they also have a 14-year-old child with epilepsy and an 18-yr old child with autism. DOC-4450940.
14. The Tenants provided text message conversations between themselves and the Landlord. This text message correspondence in part shows discussions between them regarding the rent increase, and the Tenants advising the Landlord that it may not be possible for them to pay the rent increase of \$1,600.00. There was a response from the Landlord stating that he could not do anything less than the \$1,600.00, as he was already losing \$400.00 every month, due to his expenses and not being able to work due to his physical condition. DOC 4450903.
15. The Tenant testified they received a text message from the Landlord stating that if they did not pay the increase, he would evict them. The Tenants did not provide a copy of this text message as evidence.
16. He testified when they vacated the rental unit on March 8, 2025, the rent was \$1,600.00 per month.

Maintenance Issues

Stairs

17. The Tenant testified the stairs were in disrepair at the rental unit since sometime in November 2021.
18. He testified the stairs were the main entrance to and from the rental unit, and they were not safe and himself and his family had to be very careful climbing up and down the stairs. He was concerned that himself, his wife or his children could become injured on the stairs.
19. He testified he notified the Landlord of this, and the Landlord was aware of the stairs being in disrepair as he resides at the residential complex in the upper unit. He states he came to look at the stairs and said he would fix them later. The Tenant could not recall the date that he spoke to the Landlord.
20. He provided a photograph of the stairs which appears to show a tile/brick missing from one of the steps and the stairs also have snow on them. DOC- 4421871.
21. He testified that when they vacated the rental unit on March 8, 2025, the stairs were still in disrepair.

Kitchen Faucet

22. He testified there was a leak in the kitchen faucet but could not recall the date but believes it was about one year before Covid. He states the leak progressively got worse over time. He stated that he spoke to the Landlord on several occasions but could not recall the date, and the Landlord said that he would fix it.
23. He testified the kitchen faucet was fixed sometime in 2022 but could not recall the exact date.

Range

24. The Tenant testified when they moved into the rental unit there was a range that was provided by the Landlord.
25. He testified that 2 burners out of 4 burners on the range top were not working sometime in 2018, however he could not remember the exact date.
26. He testified that it was difficult for his family of four to only have two burners to use while cooking.
27. He testified they notified the Landlord and asked the Landlord to come and have a look at the range, he could not recall the date he did this. He believes they reached out to the Landlord approximately 10-15 times from the time the two burners stopped working until he replaced the range in January of 2020. He states the Landlord never came to look at the oven.

28. He testified he replaced the range and the amount to replace was \$2,556.84. He provided a copy of the receipt. DOC-4421884.

Washroom Leak

29. The Tenant testified the water leak in the bathroom started sometime in 2013-2014.
30. The Tenant testified that the Landlord approached the Tenants, as the Landlord had found some water in the basement of his rental unit and wanted to investigate where it was coming from.
31. He testified the Landlord looked at the shower and then put some caulking around the shower.
32. He testified the caulking corrected the issue was corrected and no leaks between 2014 and 2017, in the Landlord's rental unit.
33. He testified when the caulking was put around their shower, they were unable to use the bathtub or shower for a 24-hour period. He testified they only have one washroom in the rental unit.
34. He testified that during the tenancy the caulking of the shower may have happened two times in total.
35. He testified the second time the Landlord experienced a leak in his unit the contractor come to investigate, and the wall in his shower needed to be opened, and this took 3-4 days to fix, and his family had to move in with his in laws during that period.
36. He testified the Landlord did not offer him any other alternative such as using their washroom.

Landlord's Evidence

Threats/Harassment- Illegal Rent Increase

37. The Landlord's daughter, Hrituporna Sarke testified that her father did not increase the rent every year. After a few years of having the Tenant's pay the same rent he had a discussion with the Tenants regarding a rent increase as he could not keep up with the expenses of the rental unit. She stated that there were discussions and negotiations between the parties and anytime the rent was increased it was on agreement of the parties. She stated the amount they agreed upon was often the amount the Tenants proposed they could pay.
38. She testified her father never threatened eviction and there was nothing in the text messages the Tenants provided that would show he did this. She states the text messages simply explain that he is retired, does not have the physical condition to be working and he is trying to maintain the expenses on his own. She states there was never

an element of threat or harassment, and there was always a negotiation between the parties.

39. She believes the Tenants brought this application as they were upset the Landlord had filed an N12 notice for the Landlord's son to move in, as the timing of this application was around the same time the N12 was served to the Tenants.

Maintenance Issue

Stairs

40. She testified the Tenants brought up the issues of the stairs to the Landlord and he had the stairs repaired approximately three times over the period of the tenancy.
41. She testified she is not sure how a few brocks/tiles kept breaking on the stairs after they were repaired as they are made of very strong material, however they would break down.
42. She testified she believes the stairs would break down over the winter months and then the contractor would come and fix the stairs in the Spring.
43. She testified her father lives at the residential complex and there was no reason for him to ignore any maintenance or repair issue.
44. She testified the stairs were always repaired when the Tenants advised of an issue and were in good state of repair when the Tenants vacated.
45. She testified her father advised the Tenants that if there was ever a time over the winter months, where they felt, they did not want to access their rental unit on the stairs, they were permitted to go through his rental unit as there are two entrances and they could use that secondary entrance.

Kitchen Faucet

46. She testified the Tenants told the Landlord the kitchen faucet was leaking, but he could not remember the exact date the Tenants advised him of such. However, the very next day he purchased a new kitchen faucet, and he hired a plumber to install the faucet the same day he purchased the faucet.

Range

47. She testified the Landlord had no knowledge that two of the range top burners were not functioning and he had never been notified as such from the Tenants. She stated the Landlord was not aware that the range had been replaced and that his range had been thrown out until around the time the Tenants were vacating.
48. She states if the Landlord knew of this issue, he would have addressed this.

49. She testified when the Tenants vacated in March 2025, the Landlord told the Tenants that they could take the range that they purchased with them, but he would like to have his range returned to the rental unit. She stated the Tenants opted to leave the range behind when they left.

Washroom Leak

50. She testified there was not a leak in the Tenants washroom, the leak was in the Landlord's laundry room, which is adjacent to the Tenant's washroom. The Landlord had noticed some water pooling on the floor in the laundry room.
51. She testified her father hired a contractor to come and look at the leak in the laundry room, and the contractor was required to access the Tenant's washroom to see if there was any leak in the washroom that was filtering into their laundry room.
52. The Landlord testified the wall inside the Tenants bathroom was never taken down or opened, and it was the wall in the Landlords rental unit that was disturbed.
53. The Landlord testified the shower in the Tenants bathroom was never caulked as the contractor found no issue in the Tenants bathroom and the issue was isolated to the Landlord's rental unit.
54. On cross examination, the Landlord stated there were no leaks in the Tenants washroom, and the water issue was inside his unit.
55. On cross examination, the Landlord testified that the contractor was called as water was pooling in his laundry room, the contractor accessed the Tenants rental unit to see if the water may have been coming from the Tenants washroom as it was adjacent to the Landlord's laundry room, however, upon investigation this was not the case.
56. On cross examination, the Landlord testified the contractor opened the wall inside his laundry room, fixed a pipe and closed the wall back up.

Analysis

Threats/Harassment- Illegal Rent Increase

57. Section 23 of the Act states:

A landlord shall not harass, obstruct, coerce, threaten or interfere with a tenant". While there is no definition of "harassment" in the Act, it is generally held that "harassment" is a course of conduct that a reasonable person knows or ought to know would be unwelcome.

58. My order makes no determination on whether the rent increase was an illegal rent increase as that is not before me on the T2 application. The Tenants could have filed a T1 application.

59. I accept the Landlord and Tenants have had conversations between one and another regarding rent increases and that they were negotiating a rent increase.
60. I am persuaded by the Landlord's testimony that at no time did the Landlord threaten or harass the Tenants regarding these increases. The text message string that the Tenants provided between themselves, and the Landlord does not indicate any type of threat or harassment, but rather a conversation and negotiation between the parties.
61. I do not accept the Tenant's assertion the Landlord threatened or harassed the Tenants that they needed to vacate if they did not pay the increase. The Tenants did not provide any evidence that would substantiate that this was the case, and the Tenants has the burden of proof to substantiate their claim.
62. I accept the Landlord believes that this application was only brought as a retaliation of the Landlord serving the Tenants with an N12 notice for the personal occupation of the Landlord's son as this application was filed around the same time the Tenants were served the N12 notice. While I accept the timing of this application was similar, I find the Tenants have the right to file their own application regarding any alleged breaches of the RTA. The filing of such application by the Tenants is an exercise of their legal right and shall not in itself be deemed as retaliation in response to a Landlord's application.
63. On the basis of the evidence and testimony provided by both parties I am not satisfied that the Landlord breached their obligations pursuant to section 23 of the Act.

Maintenance Issue- Stairs, Kitchen Faucet, Range, Bathroom Leak

64. 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.

Stairs

65. I accept that the Tenant's testimony that there were some missing bricks from the stairs in the photograph that they provided.
66. It was undisputed by the Landlord that there was a portion on the stairs that appeared to break down over the winter months due to snow and ice and was always repaired by the Landlord in the Spring months.
67. The photograph that the Tenants provided has snow in the photograph.
68. The Tenant could not recall the dates they notified the Landlord of the issue with the stairs.

69. I also accept the Landlords testimony that this area would become wore down in the winter months due to ice and snow and was repaired in the Spring, if the issue was present.
70. I also accept the Landlord offered the Tenants use of another entrance, through his rental unit as there are two entrances, if the Tenants did not want to use the stairs where there was a missing tile/brick in the winter months.
71. I do not find that this interfered with the Tenants reasonable enjoyment of the rental unit. The area of the stairs where the brock/tile was missing appears to be a small area. I find the stairs were still useable and this issue was caused by ice/snow and the Landlord promptly fixed in the Spring once the weather would allow for such repair. I also find that the Landlord provided the Tenants another option of entry to their rental unit if they did not want to use the main stairs.
72. On the basis of the evidence and testimony provided by both parties I am not satisfied that the Landlord breached their obligations pursuant to section 22 of the Act.

Kitchen Faucet

73. I accept the Tenant's testimony that there was a leak in the kitchen faucet. The Tenant could not recall the exact date of the leak or the exact date that it was fixed by the Landlord. He believes it started approximately one year before Covid and fixed sometime in 2022.
74. I am persuaded by the Landlord's testimony that they did become aware of a kitchen faucet leak, and the Landlord bought a new faucet the following day and installed it at the rental unit.
75. While I accept there was a leak with the kitchen faucet, I find the leak was repaired immediately. Further, I do not find that this interfered with the Tenant's reasonable enjoyment of the rental unit as there was no evidence before me to suggest that the faucet was not usable while leaking.

Range

76. I am not persuaded by the Tenant's testimony there were two burners on the range that were not working and that he notified the Landlord.
77. He testified they notified the Landlord and asked the Landlord to come and have a look at the range, he could not recall the date he did this. He believes he reached out to the Landlord approximately 10-15 times from the time the two burners stopped working until he replaced the range in January of 2020. The Tenants did not provide any evidence that they had reached out to the Landlord 10-15 times about this issue or any evidence that the two burners were not operating.
78. The Tenants then decided to replace the range on their own decision and discard the Landlord's range, without any knowledge of the Landlord. If the Tenants were not getting

a response from the Landlord as they claim, instead of buying a new range and discarding the Landlord's, they could have hired a repair company to access whether it could be repaired.

79. I am persuaded by the Landlords testimony that the Landlord only became aware that the Tenants purchased a new range closer to the time the Tenants were vacating, and they told the Tenants they could take the range they purchased when they moved, even though they had discarded the Landlord's range. The Tenants declined and left the range when they vacated.
80. Even if I am wrong, I would not find that this interfered with the Tenants reasonable enjoyment of the rental unit as the range was still functioning and there were two additional burners that were operating.

Washroom Leak

81. I am persuaded by the Landlord's testimony that he experienced a water leak in his rental unit in his laundry room, which is adjacent to the Tenants washroom, and hired a contractor to see where the leak was coming from. This required the contractor to access the Tenants rental unit.
82. I am persuaded by the Landlords testimony that the contractor assessed the washroom of the rental unit, and it was determined that the water leak was not originating from the Tenants washroom, and it was later found that there was a leaking pipe in the Landlord's rental unit.
83. I am not persuaded by the Tenant's testimony that the Landlord caulked around his shower, making the shower unusable for 24 hours. Even if the Landlord had caulked around the Tenants shower to address a water leak, I would not have found this to interfere with the Tenants reasonable enjoyment of the rental unit as the shower would have only been unusable for a very short period to allow the caulking to dry. The Tenants did not provide any photographs of the shower that had been caulked.
84. I am also not persuaded by the Tenant's testimony that the second time the Landlord experienced a leak in his unit and come to investigate, the wall in the shower needed to be opened and this took 3-4 days to fix, and his family had to move in with his in laws. The Tenants did not provide any photographs or evidence that show that this was the case.
85. I am persuaded by the Landlords testimony that at no time did any work take place in the Tenant's rental unit regarding a leak.
86. On the basis of the evidence and testimony provided by both parties I am not satisfied that the Landlord breached their obligations pursuant to section 22 of the Act.

It is ordered that:

1. The Tenant's application is dismissed.

March 9, 2026

Date Issued

Trish Carson

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.