



Order under Section 31 Residential Tenancies Act, 2006

File Number: LTB-T-079195-24

In the matter of: 414, 65 Melbourne Street West
Lindsay ON K9V0G6

Between: Emma Clements Tenant

And

Community Care Village Housing Kawartha Lakes Landlord

And

Mary Boccaccio Landlord's Agent

Emma Clements (the 'Tenant') applied for an order determining that Community Care Village Housing Kawartha Lakes (the 'Landlord') and Mary Boccaccio (the 'Landlord's Agent'):

- 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.

This application was heard by videoconference on March 4, 2026.

The Landlord's agent Mary Boccaccio, the Landlord's legal representatives Calvin Chan and Golda Greenspoon, the Tenant, and the Tenant's legal representative Stephanie Boomhour attended the hearing.

Determinations:

1. As explained below, the Tenant did not prove the allegations contained in the application on a balance of probabilities. Therefore, the application is dismissed.
2. The Tenant's T2 application alleges that the Landlord substantially interfered with the Tenant's reasonable enjoyment of the residential complex and/or rental unit by removing two of her scooters from the common area of the residential complex. The Tenant

abandoned the claim that the Landlord and/or Landlord's agent harassed the Tenant during the tenancy.

3. The Tenant seeks a 20% rent abatement for lack of use of her scooter, \$500.00 for the cost of replacing her scooter, in order that the Landlord shall refrain from moving the Tenant's items, and \$10,000.00 for general compensation.

Testimony of the Tenant

4. The Tenant has resided in the building since 2011 and is currently 72 years old. She suffers from several medical conditions, including a stroke two years ago, a past hospitalization for pneumonia, and COPD, which may require surgery or ongoing injections.
5. The Tenant used a mobility scooter for approximately five years prior to filing her application. The building, which is predominantly occupied by seniors, contains a designated scooter room used by tenants to store their mobility devices. The Tenant stored both her own scooter and her late husband's scooter in that room.
6. On March 6, 2024, the building circulated a letter advising tenants of a new policy requiring all scooters to be stored outside as of March 31, 2024. This letter was entered into evidence. The Tenant testified that she did not receive the letter directly but obtained a copy from a neighbour. The Tenant also submitted into evidence a document titled "Village Housing Board Meeting" dated March 21, 2024, which described one of the Landlord's meetings concerning the new scooter policy.
7. The Tenant testified that in March 2024 her scooter had a flat tire and she was unable to charge its batteries. She stated that aside from these issues, both her scooter and her late husband's scooter were otherwise in good condition.
8. On April 1, 2024, the building's administrator, Ms. Boccaccio, called the Tenant and instructed that the scooters be moved immediately so the scooter room could be cleaned. The Tenant was unable to attend to the request as she had a doctor's appointment. When she returned later that day, both scooters had been removed and placed outside under a tarp. She later discovered them near the garbage area, damaged and "virtually destroyed." On April 30, 2024, photographs were taken by Lisa Loader, a lawyer with the local legal clinic, with the Tenant present. These photographs were entered into evidence.
9. Subsequently, the scooters were moved into the building's garage by the Landlord. The Tenant has not seen the scooters since they were placed in the garage and does not know their current condition.
10. The Tenant testified that after her husband passed away on December 23, 2023, she intended to give his scooter away for parts, as she did not know how to charge or maintain it. The Tenant did not provide evidence on the value of the scooter.

11. The Tenant confirmed that she has acquired a new scooter for her own use, which she stores inside the rental unit. She had originally negotiated a purchase price of \$3,000.00 for the scooter with another tenant. After that tenant passed away, the Tenant stated she intends to pay the family \$500.00 for the scooter when she is financially able to do so.
12. As a result of losing access to her scooter, the Tenant was required to use the stairs, which she is physically unable to manage. She testified that she found the entire situation extremely distressing. The Tenant was not sure when she obtained the new scooter to replace the original one.
13. During cross-examination, the Tenant confirmed that she never used her late-husband's scooter and did not closely inspect either scooter following his passing. She further testified that she asked James Shaw, an employee of the Landlord, on one occasion about viewing the scooters, Mr. Shaw told her he was busy. She did not make any further requests and does not know whether she would be permitted access to view them.

Testimony of Mary Boccaccio

14. The Landlord's agent, Ms. Boccaccio, is the building administrator and housing provider. She testified that she has firsthand knowledge of the events concerning the Tenant's scooters.
15. Ms. Boccaccio explained that the building contains a purpose-built scooter parking room with eight designated spaces. Priority for these spaces is given to tenants residing in wheelchair-modified units, of which there are nineteen in the building.
16. She described the development of the building's scooter policy. When the building first opened in 2011, scooters were not permitted. Over time, scooters became more common, and the building's board grew increasingly concerned about safety issues (including appropriate storage and battery charging). An initial, simplified policy was not well received by tenants, prompting the Board to develop a more comprehensive policy addressing insurance, fire prevention, and other safety requirements. Under the current policy, scooters must be stored inside tenants' units unless a tenant qualifies for priority status through medical documentation. The Tenant does not occupy a modified unit and is not considered a priority tenant, although the medical information she has since submitted may affect her status.
17. The witness testified that the scooter room also functions as a means of egress and, while there is no fixed schedule, it is intended to be swept and mopped monthly. During a health and safety inspection in the last quarter of 2023, conducted by the building's board chair, vice-chair, and Ms. Boccaccio, the room was found to be in need of a deep cleaning. The first two scooters in the room, the Tenant's and her late husband's, were identified as concerning because they contained garbage, including egg cartons placed on the seats, which the witness considered a fire hazard.

18. Ms. Boccaccio testified that she concluded the scooters had been neglected for some time and needed to be removed. She stated that all tenants, including the Tenant, were asked to remove their scooters from the room. When the Tenant did not do so, she called her to inform her that the scooters would need to be removed. According to Ms. Boccaccio, during that call the Tenant agreed that the scooters would be moved on April 1, 2024. The Tenant was offered the opportunity to supervise the move but did not attend.
19. On April 1, 2024, the scooters were placed outside under tarps because one was inoperable, neither had chargers, and both appeared rundown and unused.
20. In late August 2024, the Landlord decided to relocate the scooters into the building's garage to protect them from weather exposure. Multiple letters relating to the scooter policies, the sequence of events, and the board's decisions were entered into evidence.
21. Ms. Boccaccio testified that the garage is open to tenants Monday to Friday between 8:00am and 3:00pm, and that the Tenant could have accessed her scooters during those hours. She denied that the Landlord ever told the Tenant they could not access the scooters or remove them from the property.
22. The witness was questioned about the debris visible in the scooter baskets in the photographs taken by the Tenant on April 30, 2024. She confirmed that it was the same debris observed during the late-2023 inspection. She also confirmed that visible damage to a front panel of one scooter had been present at that time and may have resulted from a collision with an object.
23. On cross-examination, the witness acknowledged that the finalized scooter policy was not yet in place when the Tenant's scooters were removed and that the priority system had not been implemented at that time. She also confirmed that the Landlord did not provide documentation to explain the fire-safety concerns to the Tenant and did not provide written reasons for the removal of the scooters.

Testimony of James Shaw

24. The witness is another tenant in the building who is paid by the Landlord to "monitor security issues". He testified that he was present when Ms. Boccaccio spoke with the Tenant about removing the scooters from the scooter room. He confirmed that the Tenant acknowledged the discussion and agreed that she would remove the scooters. He stated that the Tenant was given an opportunity either to move the scooters herself or to be present when they were moved, but she did not attend on April 1, 2024.
25. The witness explained that he assisted in removing the scooters from the building by placing them in neutral and pushing them to the back of the property. He encountered no obstacles during the move. According to his testimony, both scooters were in poor condition, which he described as "junk." He testified that neither scooter was functional and that the Tenant's scooter had never operated during the time he lived there. He stated that Tenant's late-husband's scooter had worked until a few years before his passing but had since been sitting unused and piled with debris. The witness also confirmed that he had

never seen the Tenant use her scooter at any time. He has lived in the building for approximately eleven years and worked there for nearly that entire period.

26. He testified that after the scooters were moved outside, they were later placed near the garage but were never removed from the property and remain stored in the garage. He further stated that the Tenant never asked him for access to the garage. In his view, the condition of the scooters shown in the photographs matches their condition at the time he moved them as they are old, rusty, dirty, and unused. He estimated that the scooters had been sitting in the same location near the scooter room door for five to eight years without being used.

Analysis

27. Section 22 of the Residential Tenancies Act (the Act) states:

22 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.

28. The Tenant seeks a finding that the Landlord substantially interfered with her reasonable enjoyment of the residential complex and/or rental unit. The evidence establishes that the Tenant stored two mobility scooters in a common area of the building. When the building's policies changed, the Tenant was provided with an opportunity to remove the scooters.
29. The Tenant's testimony was inconsistent throughout the hearing. While some difficulty in recalling dates and events is understandable, the burden nevertheless rests on the Tenant to prove her application. The Tenant frequently contradicted her own evidence and altered her account of the timeline of events. By contrast, I found the evidence of Ms. Boccaccio to be more credible, as it was consistent and corroborated by the documentary record. I also found Mr. Shaw's testimony helpful in assessing the condition of the scooters and the extent to which they were used by the Tenant.
30. I find that the Tenant was provided an opportunity to remove her scooters from the common storage room on April 1, 2024, but failed to do so (regardless of any formal policies that may, or may not, have been in place). There was no evidence that use of the scooter room formed part of the Tenant's lease, and the Tenant did not make this submission at the hearing. Accordingly, I find the Landlord provided proper notice to the Tenant and was entitled to remove the items from the common area. The Landlord subsequently took steps to preserve the scooters, relocating them first outdoors and later into the garage, where they remained accessible up to the date of the hearing. The Landlord has a duty to ensure the common areas of the residential complex are clean and safe, pursuant to section 20 of the Act. The removal of the scooters falls squarely within the Landlord's obligations.

31. I am not satisfied that the Tenant took any reasonable steps to access the scooters or to regain possession of them. The evidence supports that the scooters were available to be retrieved, yet the Tenant had not done so as of the hearing date. I find Mr. Shaw's evidence regarding the lack of Tenant attempts to retrieve more credible than the inconsistent memory of the Tenant. Even had I found the Tenant's testimony credible, only trying to retrieve the scooters once is not a meaningful effort that can result in serious interference.
32. I am also not satisfied that the Landlord's conduct of moving the scooters from the storage room to outside storage, and finally to the garage resulted in any serious interference to the Tenant's reasonable enjoyment of the residential complex. Had the Tenant retrieved their scooters when they first knew about them being moved, the issue would have been mitigated. The Tenant still has the ability to retrieve their scooters as of the date of the hearing.
33. Furthermore, I am not persuaded that any damage to the scooters was caused by the Landlord. No photographs or other evidence were presented showing the condition of the scooters prior to their removal. I prefer the evidence of the Landlord regarding the pre-existing condition of the scooters and their condition after relocation.
34. While not pled or argued by either party, I have turned my mind to the *Human Rights Code*, and the effect the Landlord's actions of moving the Tenant's scooters may have had on the Tenant as it relates to the *Code*.
35. While the Tenant testified regarding their medical issues, there is no evidence that the Landlord's actions were motivated by, or had an adverse impact, on the Tenant. The Landlord applied the same scooter policy to all tenants using the common area room to park their scooters and did so for safety and housekeeping reasons. There is no evidence that the Tenant requested any accommodation related to disability at the time, nor did she provide medical information indicating a *Code*-related need for indoor scooter storage. It is unclear from the evidence whether the Tenant required an accommodation that would have necessitated action from the Landlord. In these circumstances, the record does not establish a case of discrimination or any violation of the *Code*.
36. For these reasons, I find that the Landlord did not substantially interfere with the Tenant's reasonable enjoyment of the rental unit or the residential complex.
37. The Tenant abandoned their allegations of harassment therefore it will not be addressed in this order.

38. Even if I had found that the Landlord seriously interfered with the Tenant's reasonable enjoyment of the residential complex by moving the scooters, I would not have ordered a rent abatement or compensation. The Tenant had ongoing access to the scooters and made no meaningful effort to retrieve them. Retrieving the scooters immediately would have negated any rent abatement or damages that would result in general compensation. Moreover, the Tenant has not demonstrated any compensable loss arising from the acquisition of a new scooter, as she has not paid any amount for it.

It is ordered that:

1. The T2 application is dismissed.

March 11, 2026
Date Issued

Brett Lockwood
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.