



**Order under Section 9(2), 30, and 130
Residential Tenancies Act, 2006**

File Numbers: LTB-T-007598-24
LTB-T-035902-24
LTB-T-079223-23

In the matter of: 2517 Dundas Street West
Oakville Ontario L6M4J4

Between: Ivars Oberfelds Tenant

And

Palermo United Church Landlord

Ivars Oberfelds (the 'Tenant') applied for an order to determine whether the *Residential Tenancies Act, 2006* (the 'Act') applies (A1 Application).

The Tenant also applied for a reduction of the rent charged for the rental unit due to a reduction or discontinuance in services or facilities provided in respect of the rental unit or the residential complex (T3 Application).

The Tenant also applied for an order determining that the Landlord failed to meet the Landlord's maintenance obligations under the Act, or failed to comply with health, safety, housing or maintenance standards (T6 Application).

This application was heard by videoconference on December 17, 2025.

The Landlord's agent, Ross Runnalls, the Landlord's legal representative, Neil Emerson, and the Tenant attended the hearing.

Determinations:

A1 Application

1. Based on the evidence before me, I am satisfied on a balance of probabilities that the Act applies to this tenancy. The Tenant's submissions regarding whether or not the Act applies is confusing and does not clearly articulate which exemption they believe the rental unit falls under. Additionally, the Tenant also filed two additional applications claiming that the Act does apply to the tenancy.
2. The Landlord does not dispute that the Act applies.
3. Since it is up to the applicant to prove that the Act does not apply to their particular tenancy, and since the Tenant failed to put forward any evidence with respect to which exemption they believed the unit fell under, I find that the Act does apply to this tenancy.

T3 Application – reduced or discontinued Air Conditioning and Washing Machine

4. The Tenant's T3 application must also fail for the following reasons.
5. The Tenant claims that the Landlord discontinued the Air Conditioning (AC) at the rental unit on or about March 10, 2024. The Tenant further claims that the Landlord reduced the service of a washing machine on March 10, 2024.
6. This application is brought pursuant to subsection 130(1) of the Act.
7. "Services and Facilities" are found under the definitions contained in section 2 of the Act in this instance as this is not an additional service or facility as described under section 125 of the Act as they were not added services with respect to the rental unit after the initial agreement took place.
8. The Tenant submits that on or about March 10, 2024, the Landlord replaced the oil furnace with a gas furnace. When the furnace was replaced, the Landlord did not replace the furnace with an AC unit attached to it, although there had been one on the old oil furnace. The Tenant further submits that the AC unit was fully operational up until the Landlord replaced the furnace. On this basis, the Tenant submits that the Landlord discontinued the AC facilities.
9. The Landlord does not dispute that when they replaced the oil furnace with a gas furnace, that they did not install an AC unit on the new furnace. The Landlord submits that the AC was never included in the monthly rent as it has never worked since the tenancy began originally in 2006. They submit that they did not discontinue the use of the AC because it never worked in the first place and was never promised. They also dispute that the Tenant uses the furnace at all because they refuse to put oil in it, and for these reasons the Tenant's application must be dismissed on this ground.
10. The Tenant's evidence was that it was working at the onset of the tenancy and his ex-spouse, when she lived in the unit up until on or about April of 2009, used to use the AC to keep cool in the summer months and that she would have otherwise complained about it being too hot. The Tenant submits that he would use it during the summer months and it would blow out cold air. He submits he used it up until the time the Landlord replaced the furnace and removed it.
11. In order for me to consider whether the AC was discontinued within the meaning of section 130(1) I have to consider whether or not the AC was a "service and facility" included in the rent. There is no provision in the lease agreement dated April 5, 2009 with respect to the AC.
12. Subsection 202(1) states that in making findings on an application, the Board shall ascertain the real substance of all transactions and activities relating to a residential complex or a rental unit and the good faith of the participants and in doing so, (a) may disregard the outward form of a transaction or the separate corporate existence of participants; and (b) may have regard to the pattern of activities relating to the residential complex or the rental unit.

13. What this means is that I can consider whether the AC was an implied term of the lease based on the conduct of the parties relating to the AC at the onset and during the tenancy.
14. In these circumstances I am unable to find that AC was an implied term of the tenancy. I do not accept that this was a term contemplated by the parties at the onset of the tenancy as an included service or facility as the Tenant submits and I prefer the evidence of the Landlord that it never worked.
15. Even if this was not the case, the Tenant's evidence with respect to the furnace is difficult to reconcile since the letter dated May 3, 2024 from the Tenant to the Landlord's "Trustees" submits that the furnace has not worked in approximately 12 years which required the Tenant to use an alternative heat source. If this is the case, then the Tenant ought to have filed their application within the year in which the AC service was reduced or discontinued. Since subsection 130(4) of the Act requires the application to be filed within one year of the discontinuance, this would put the AC issue approximately 11 years out of time.
16. This is not the same as a Landlord's obligation to provide the vital service of heat between September 1, to June 15 or the Landlord's obligation to repair the furnace. The application before me pertaining to the AC is an application relating to a discontinued or reduced service or facility and not about the Landlord's breach of maintenance obligations or interference with a vital service.
17. With respect to the washing machine, however, I do find this to have been an implied term of the tenancy agreement. The Landlord does not dispute that when the Tenant moved into the unit there were four appliances in good working order. This included the fridge, stove, washer and dryer.
18. The Tenant testified that on or about March 10, 2024 their washing machine had stopped working and that they asked the Landlord for a replacement machine around this time, but the Landlord refused to provide a new washing machine and told the Tenant it was their responsibility to replace it. The Tenant submits, that although it is not part of the lease agreement, the use of the appliances including the washer, dryer, fridge and stove were all implied as part of the rent when the Tenant took possession of the unit in 2006.
19. The Landlord submits that they only provided the Tenant with a working fridge and stove and that the washer and dryer were not the Landlord's but left by the previous Tenants as an added bonus for the Tenants. They don't dispute the Tenant's allegation that they refused to replace it because they don't feel they are obligated to do so.
20. Unlike the AC which was never promised or working, the appliances provided at the onset of the tenancy are in fact under the Landlord's obligation to repair. The Landlord provided the appliances and they were in good working order at the onset of the tenancy and they were contained in the rental unit.
21. Although I do find that the appliances were included, the issue before me is that by March 12, 2024 (2 days later), the Tenant purchased their own replacement washing machine. This in essence eliminated the discontinuance of the washing machine appliance. Also,

what the Tenant asserts is a reduced service or facility is in actual fact a breach of the Landlord's maintenance obligations and on this basis the T3 application must be dismissed.

22. Even if I were to consider the issue with the washing machine as a breach of maintenance, I would not find it appropriate to grant a remedy to the Tenant. Rather than applying to the Board regarding the Landlord's breach, the Tenant helped themselves to their own remedy. I would not find two days would provide adequate or reasonable time for the Landlord to address the repair.
23. For instance, in *Onyskiw v. CJM Property Management Ltd.*, [2016 ONCA 477](#), the Court of Appeal held that the LTB should take a contextual approach and consider the entirety of the factual situation in determining whether there was a breach of the landlord's maintenance obligations, including whether the landlord responded to the maintenance issue reasonably in the circumstances. The court rejected the submission that a landlord is automatically in breach of its maintenance obligation as soon as an interruption in service occurs.

T6 Application – Snow Removal and Lawncare

24. There is no dispute that the Tenant has exclusive use of their rental unit, which includes their driveway and a patch of lawn adjacent to the church. The lease maintains that the backyard is shared with the adjacent church and the Tenant agreed to perform the snow removal and grass cutting for their exclusive use areas.
25. Throughout the entire tenancy, the Tenant has cut the grass and cleared the snow outside the rental unit. They have assumed this responsibility as agreed since they moved into the unit in 2006. However, due to a back injury, the Tenant has been unable to regularly perform this maintenance as of September 5, 2023.
26. The lease contains a provision that the Tenant is responsible for the maintenance of the grounds of the subject property, and shall keep the grass cut and the flower beds weeded at all times. Should the Tenant fail to maintain the grounds to the satisfaction of the Landlord, the Landlord shall arrange for the maintenance of the grounds and the Tenant shall be responsible for the cost of the same.
27. Further, paragraph 8 of the lease it states that the Tenant acknowledges that they have inspected the rented premises and they are now in a good state of repair and cleanliness. The Tenant agrees to keep the rented premises in a reasonable state of cleanliness and to assume the responsibility for repair of all damages to the rented premises caused by his conduct.
28. There is no blanket obligation, imposed on a Landlord in Ontario, to remove snow and ice salt, and cut grass. Whether or not, in any particular circumstance, the obligation would fall on the Landlord would depend on a number of factors. For example, the regulations in [section 26\(1\)\(5\)](#) of [O. Reg. 517/06](#): Maintenance Standards, which require a landlord to keep exterior common areas free of unsafe accumulations of ice and snow, apply only to a

unit located in a geographical location in Ontario to which section 224(1) of the Act applies. *Montgomery v. Van*, [2009 ONCA 808](#) (*Montgomery*), para. [7](#).

29. However, *Montgomery* does speak to the proposition that a landlord cannot in a lease agreement delegate its statutory and regulatory maintenance obligations to a tenant. Should the landlord wish to have the tenant perform maintenance obligations for them, such an arrangement must be in a severable contract. In the case of *Montgomery*, the lease delegated to a tenant the obligation to remove snow. It does not however hold that snow removal is always a maintenance obligation of the landlord. The key issue is whether a landlord has delegated its compulsory maintenance obligations to a tenant.
30. The Regulatory authority that informed *Montgomery* as abovementioned is a regulation made under the Act: [O. Reg. 517/06](#). In accordance with section 224(1) of the Act, this regulation sets out maintenance standards that apply in parts of the province that lack municipal housing and maintenance standards. [Subsection 26\(1\)](#) of O.Reg 517/06 was material to the decision in *Montgomery*:
26. (1) Exterior common areas shall be maintained in a condition suitable for their intended use and free of hazards and, for these purposes, the following shall be removed:
1. Noxious weeds as defined in the regulations to the Weed Control Act.
 2. Dead, decayed or damaged trees or parts of such trees that create an unsafe condition.
 3. Rubbish or debris, including abandoned motor vehicles.
 4. Structures that create an unsafe condition.
 5. Unsafe accumulations of ice and snow.
31. This regulation may impose an obligation on the landlord to maintain exterior common areas, including removing dangerous snow and ice from them, grass cutting and salting. This is material to distinguish the current application from *Montgomery*, as in *Montgomery* the tenant was one of many in a multi-unit complex, whereas the Tenant in this application resides in a single-family bungalow dwelling as the sole tenant.
32. The tenancy agreement gives him exclusive possession of the entire property, including the walkways, yard and driveway. Subsection 26(1) of O.Reg 517/06 imposes these obligations on a Landlord for “exterior common areas” only. As there are no exterior common areas, only areas of exclusive possession, subsection 26(1) could not be engaged. *Montgomery* simply cannot be taken as an authority that the Landlord cannot delegate lawn or snow removal responsibilities in the lease for a standalone rental unit that is rented in its entirety under a single tenancy agreement.
33. Additionally, the Tenant has assumed this responsibility by performing these services for the duration of their tenancy, albeit now they are no longer physically able to continue providing this service.
34. Similarly, the board and the Superior Court have determined that even where section 26(1)(5) of O.Reg. 517/06 does apply, it does not require a landlord to clear ice and snow when – as is the case here – the entire residential complex consists of a single unit, and

therefore there is no exterior “common area”. See *e.i. Perreault v C/o Sentinel Management Inc.*, [2021 CanLII 148914 \(ON LTB\)](#), *Crete et al. v. Ottawa Community Housing Corporation et al.*, [2023 ONSC 5141](#), para. [51](#).

35. Also, since the Corporation of the Town of Oakville has bylaws with respect to ownership of lot maintenance and snow removal standards, subsection 26(1) of O.Reg 517.06 does not apply.

36. Under the property standards bylaws for the City of Oakville under By-Law Number 2023-074, it defines the person responsible as the “Owner” as follows:

“Owner” includes: (a) the registered owner(s) of the property; (b) the person, for the time being, managing or receiving the rent from a building on the property, whether on the person’s own account or as agent or trustee of any other person, or who would receive the rent if the building on the property were let; and, (c) **an occupant of a building on the property; (d) a lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of property;** (emphasis added)

“Occupant” means any person or persons over the age of eighteen (18) years residing at a property;

In any regard, the Landlord has since assumed the responsibility of lawn care and snow removal since on or about April or June of 2024.

37. Under Part 12 and section 33 of the Bylaw, it provides additional standards for residential rental properties. This provision further accounts for instances where a landlord and tenant may contract into the tenant being responsible for keeping the rental property free from accumulations of snow and ice and for maintaining ordinary cleanliness and specifically addresses a landlords obligations to maintain the “common areas”.

38. In this respect, and based on the above analysis, I do not find in favour of the Tenant in order to grant a remedy for snow removal or lawncare which they have assumed responsibility for and agreed to under the terms of their lease.

39. Furthermore, the Landlord has since assumed this responsibility of lawn care and snow removal since on or about April or June of 2024 at no additional cost to them.

40. For these reasons, the Tenant’s T6 application must also be dismissed.

It is ordered that:

1. The *Residential Tenancies Act, 2006* applies.
2. The Tenant’s T3 application is dismissed.
3. The Tenant’s T6 application is dismissed.

March 23, 2026
Date Issued

Terri van Huisstede
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.