



Order under Section 30 Residential Tenancies Act, 2006

Citation: EISENBERG v GARDNER, 2026 ONLTB 24517

Date: 2026-03-23

File Number: LTB-T-056572-24

In the matter of: Upper, 171 Broadview Ave
Toronto ON M4M2G3

Between: Benjamin Eisenberg Tenants
Nicole Doray

And

Ryan Gardner Landlord

Benjamin Eisenberg and Nicole Doray (the 'Tenants') applied for an order determining that Ryan Gardner (the 'Landlord') failed to meet the Landlord's maintenance obligations under the *Residential Tenancies Act, 2006* (the 'Act') or failed to comply with health, safety, housing or maintenance standards.

This application was heard by videoconference on February 25, 2026.

The Tenant Benjamin Eisenberg, the Tenants' representative Sophia Lavimodiere, the Landlord, and the Landlord's representative Sarah Teal attended the hearing.

Determinations:

1. As explained below, the Tenants proved on a balance of probabilities the following allegations contained in the application: that the Landlord failed to maintain the rental unit after a leak on January 26, 2024. Therefore, the Landlord must compensate the Tenants in the amount of \$10,408.13.
2. The only issue raised in this application is that there was a persistent leak in the rental unit between January 26, 2024 to July 17, 2024. This issue was fixed as of July 18, 2024.
3. The rental complex is a three-storey house. The rental unit consists of the second and third floor, plus a third-floor patio. The Tenants bedroom was located on the second floor, below the rooftop patio and this is the main area which experienced leaks. The Tenants also had a second bedroom, one washroom, a kitchen and a living room space.
4. The Tenants moved into the rental unit on October 1, 2023 and vacated September 30, 2024.

5. The parties agreed that upon their move in, the Landlord stated that the roof of the rental unit would likely need to be repaired in the next few years.

Tenant's testimony

6. The Tenant Benjamin Eisenberg stated that they reported a leak above their bed to their Landlord on January 26, 2024. This leak eventually became a hole in the ceiling, and at one point tar and construction materials also fell through it. Smaller leaks also developed in other spaces around the bedroom.
7. The Tenant testified that the Landlord sent a roofer to repair the roof on February 1, 2024 and that a small patch repair was done next to an exhaust pipe. The Tenant stated that this roofer asked them if this was the same leak that occurred the summer prior – though the Tenants did not reside in the unit at that time. This repair did not work, and the Tenant stated that roofers returned on March 2, 2024, but the leak continued. The Tenants affixed garbage bags to the ceiling over their bed in order to try and catch water. The Tenant testified that the room developed a musty smell from wet insulation and drywall. Another leak developed in April above their doorway and in their hallway. They testified that they notified the Landlord on April 3, 2024 and that the Landlord put caulking around the door in order to fix the issue. The leaks continued and the Tenant testified that on April 21, 2024 the Landlord said he was looking into obtaining quotes for a full roof repair.
8. The Tenants then went on vacation over June 7-21, 2024. The parties also agree that Landlord could not conduct repairs for a few days around June 18, 2024 because a criminal investigation was taking place in an adjoining property and police did not allow workers at the rental unit. On June 18, 2024 the Tenant said that the Landlord had booked roofers. On June 27, 2024 the Landlord notified the Tenants that a live electrical wire was found in the roof and there would be delays in repairing the roof because an electrician was needed to re-route it. On June 27, 2024 tar fell through the Tenants' bedroom ceiling onto their bed. They state this destroyed their pillows and comforters, which could not be salvaged due to the amount of debris which had stained them. The Tenants purchased an air purifier in order to combat the poor air quality which they say developed and which lasted for months after. After the tar incident, the Tenants spoke with an asbestos specialist about the potential hazards they were being exposed to. The Tenants then decided to stay at an Airbnb. This stay lasted over June 28 to July 11, 2024. After this timeframe, the Tenants flew to the United States to stay with one of their parents, and later their friend, in order to remain out of the unit while repairs were finished. They state that they incurred \$548.17 to rent cars in order to travel to and from the United States. This stay was planned because it was more affordable than continuing to rent an Airbnb accommodation. The Tenant stated that the roof was fully patched up on July 18, 2024.

Landlord's testimony

9. The Landlord was of the view that he responded to the leaks which arose on an almost immediate basis, and that there were a variety of delays which occurred in fixing the roof which were beyond his control. For instance, the Landlord pointed to there being periods where rain was expected where roofing work could not be done (March 27, 2024). He pointed to the fact that at times the roofing company he used did not get back to him about

scheduling the next phase in a timely manner (a delay between April 3 to April 8, 2024). The Landlord noted that the criminal investigation which took place next door caused several days of delay (commencing June 18, 2024). The Landlord also testified that the roofing company he hired did not work on weekends and that the leaks which sprung up changed in location as the months went on. According to the Landlord, after some patch repairs were done, the roofers advised him that they would have to wait until rainfall occurred again to see if the fix worked (early March 2024).

Analysis

10. I generally did not find the Landlord's explanations for these delays to be reasonable. None of these delays appeared to last an extensive amount of time. The parties agreed that the Landlord knew the unit's roof would be in need of repairs in the next few years, upon their move in date. Given this fact, it was unreasonable to expect that the Tenants could comfortably reside in the rental unit or use their space normally when persistent and foreseeable interruptions took place.
11. I also find it unreasonable for instance, that the Landlord hired workers who did not work weekends considering the level of interruption experienced by the Tenants and the ongoing property damage that was being sustained. The Landlord also failed to provide any evidence of documented weather delays which might have impacted the work; let alone over a 5-month period. As of April 21, 2024 the Landlord appeared to be aware that a full roof repair was needed, and yet the work still took an additional three months.
12. On a balance of probabilities, I find that the Landlord failed to meet the Landlord's obligations under subsection 20(1) of the Act to repair the rental unit.

Remedies

13. The Landlord did not contest that the Tenants incurred at least \$3,010.10 CAD in Airbnb rental fees. They also incurred \$548.17 in car rental fees in order to travel to the US to temporarily stay with family while repairs were being conducted. I find it reasonable that the Tenants felt that they could not reside in an active construction zone where live electrical wires were found and where persistent leaks arose. In addition, I am persuaded that the Tenants first attempted to mitigate their damages by making a tenant insurance claim to their insurance company. This claim was denied based on the damage not having been due to an "act of peril" but because of disrepair.
14. The Tenant provided receipts showing they incurred costs of \$274.59 to replace their bedding. It is understandable that their bedding was not salvageable because hot tar had saturated it on June 27, 2024. The Tenant provided a receipt showing \$298.99 was spent purchasing an air purifier. It is reasonable that the Tenants wanted to improve their air quality given tar and construction materials fell through their ceiling.
15. \$274.59 is ordered as compensation for damage to the Tenants' bedding. While the Tenants receipts for out-of-pocket costs total \$3,857.26, I limit the amount ordered as compensation to \$3,478.59 which is the maximum sought in their application.

16. The Tenants also claimed an abatement of rent totalling \$13,475.00 which reflects a 50.00% abatement of rent between February 2024 to June 2024 and a 100.00% abatement of rent for July 2024. The Tenant testified that their use of the unit changed because they had to begin storing all of their belongings, including workstations and computer equipment in their living room and their second bedroom after the leaks began. Over the duration of the leaks, they dealt with poor air quality, a musty smell in the unit, bugs entering the unit, and construction debris. An abatement of 30.00% is ordered over the period of January 26, 2024 to July 17, 2024 over which time the roof disrepair persisted. This abatement reflects the significant interruption the Tenants experienced to their use and enjoyment of the unit. It also reflects that they were still able to use other portions of the rental unit such as the kitchen and bathroom. A 100.00% abatement of rent is not ordered for July because the Tenants were still able to store their belongings there. This totals \$6,606.95 for a period of 174 days. The lawful rent over this period was \$3,850.00 per month.
17. The Tenants' claims for an order prohibiting a rent increase and for maintenance are denied. The work has been completed, and they no longer reside in the rental unit.

It is ordered that:

1. The total the Landlord shall pay the Tenants is \$10,408.13. This amount represents:
 - \$6,606.95 for a rent abatement for the period ending July 17, 2024.
 - \$274.59 for the reasonable costs that the Tenants have incurred to repair property that was damaged as a result of the Landlord's actions.
 - \$3,478.59 for the reasonable out-of-pocket expenses that the Tenants have incurred.
 - \$48.00 for the application filing fee.
2. The Landlord shall pay the Tenants the full amount owing by April 3, 2026.
3. If the Landlord does not pay the Tenants the full amount owing by April 3, 2026, the Landlord will owe interest. This will be simple interest calculated from April 4, 2026 at 4.00% annually on the balance outstanding.
4. The Tenants have the right, at any time, to collect the full amount owing or any balance outstanding under this order.

March 23, 2026
Date Issued

 Madeline Ntoulas
 Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.