



Order under Section 30 Residential Tenancies Act, 2006

Citation: Carroll v Merli, 2026 ONLTB 24166

Date: 2026-03-25

File Number: LTB-T-002166-25

In the matter of: 38 Carnaby Cres
Kitchener Ontario N2A1M7

Between: Bernard Carroll Tenant

And

James Merli Landlord

Bernard Carroll (the 'Tenant') applied for an order determining that James Merli (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 11, 2026.

The Landlord and the Tenant attended the hearing.

Determinations:

1. As explained below, the Tenant proved on a balance of probabilities the allegations in part as contained in the application. Therefore, the Landlord must pay the Tenant \$240.40. This amount represents \$150.00 for a rent abatement for the period ending July 12, 2024 and \$90.40 for the reasonable out-of-pocket expenses that the Tenant has incurred.
2. The Tenant moved into the rental unit on September 1, 2020 and as of the application filing paid the lawful monthly rent of \$958.00.
3. The Tenant testified that:
 - He advised the Landlord that the fridge was not functioning properly on or about January 6, 2024
 - Specifically that the fridge had inconsistent temperature control, causing food spoilage.

- He sought help through a legal clinic, and that the Landlord reluctantly replaced the fridge in July 2024.
 - The fridge was replaced with even an older model fridge.
 - The fridge replaced does not cause spoilage but substantially interferes with his reasonable enjoyment of the kitchen as the Landlord modified the kitchen cabinetry to force what the Tenant suggests is an oversized fridge into a space that does not accommodate it. And that the new fridge experiences some condensation periodically.
 - He must now use a stool to access the cabinet above the fridge.
 - He wants the Landlord to replace the “replacement” fridge with another one that fits better in the kitchen and the cabinet surround.
4. The Tenant relies on evidence as contained in DOC-4810729, comprising of photos of the replacement fridge and an invoice for an inspection of the old/ former fridge by an appliance repair company dated June 4, 2024 for which he incurred a cost of \$90.40 (page 3).
 5. The Tenant further notes that a repair quote for the fridge was rendered in the amount of \$220.35 in connection to the thermostat not functioning properly, however this was not included in evidence. He said that he had to dispose of 7 cartons of half and half creamer for which he claims \$23.93.
 6. The Tenant submitting that for obvious reasons, if the fridge was not causing his food to spoil he would not have incurred a cost to investigate the issue further.

Landlord testimony

7. The Landlord said he was contacted by the Tenant about the fridge concerns sometime prior to January 2024 and that he attended at the unit to investigate the issue of temperature complained of. As the fridge registered 33 Fahrenheit, he was satisfied that the temperature was within the appropriate reading limit.
8. That on January 6, 2024, the Tenant had again contacted him, and he offered to go back and review the fridge again. He attended at the rental unit on January 7, 2024 and the Tenant did not answer the door. He followed up with an email and did not hear back from the Tenant until about two months later, the Tenant saying he had been sick.
9. The Landlord asked to review the fridge again in May 2024, that the Tenant then reached out to legal aid.
10. The Landlord does not dispute that he replaced the Tenant’s fridge with an older model, this was a fridge that was repurposed from another unit, that it had issues with the circulating fan and ice built up however as it was repaired it was put to use again.

11. The Landlord said that while he replaced the fridge with a older model and had to make modifications to the cabinets as the replacement fridge is 0.8 of an inch too tall he didn't dispose of the old fridge as it is still in working order. That he has it plugged in and it consistently registers a temperature of 33- 37 Fahrenheit. He opines that old fridges are a lot better built and last a lot longer than the modern fridge that typically lasts only 7-8 years.
12. The Landlord submits that he is responsive and does his best to keep everything in working order.

Analysis

13. Based on the evidence as before me, 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 with his obligation to maintain the fridge in good state of repair for the reasons as follow.
14. 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.
15. In this case I believe it more likely than not that the Tenant repeatedly complained to the Landlord about the condition of the fridge. I am also mindful that the Landlord took steps to investigate the issue in a timely manner and take into account that he was not able to addresses the issue until some time later as the Tenant submitted he was ill for a couple months after the initial inspection on January 6, 2024.
16. However, I am satisfied that the Tenant took reasonable measures to investigate the functionality of the fridge in June 2024, especially where the Landlord, not being a refrigeration expert took his own temperature measures and concluded the fridge was in good working order. I believe functionality goes beyond a single day measurement and where a more detailed diagnostic assessment is required to arrive at the precise issue. Here, the Tenant engaged a professional confirming a repair was required.
17. The Landlord, while not accepting that the fridge needed replacement did so nonetheless on July 12, 2024. The replacement fridge was provided by the landlord as a part of the rental premises and as such the landlord has an obligation to maintain the fridge in a good state of repair.
18. While the Tenant suggests the replacement fridge poses inherent issues for him because of its size, there was no evidence adduced that it is not in working order, this was further confirmed in Tenant's evidence where he notes that he has not experienced further food spoilage. The Landlord is obligated to provide a fridge that is in good working order, despite the size of the refrigerator not being of the Tenant's preference.

Remedies

19. Therefore, I find the Tenant is entitled to a lump sum abatement of rent in the amount of \$150.00. In arriving at this amount, I have considered that the Landlord attempted to investigate the issues raised again after January 6, 2024 but that the Tenant did not reply to him for a “couple of months”. I cannot consider the period of time where the Tenant while ill, did not permit the Landlord entry to investigate and possibly effect a repair sooner. There was no evidence provided by either side to support the time frame.
20. Therefore, the award of \$150.00 is to recognize the time frame during which the fridge was not fully functional until it was replaced on July 12, 2024.
21. Further, I am satisfied that if not for the assistance of the legal clinic, the Tenant may not have had the fridge replaced. In advancing his claim, he initiated an inspection of the fridge by an appliance company and incurred an out of pocket expenses in doing so. Therefore, the Landlord must pay the Tenant \$90.40 for this out-of-pocket expense.
22. I am not able to consider the cost of \$23.93 for the cost of disposed of half and half cream as there were no receipts or any other evidence in support of this claim.
23. Given that the replacement fridge is in working order, despite the Tenant not being satisfied with it, the remedies the Tenant seeks for the Landlord to provide yet another replacement fridge and for the Board to award that no further rent increases are provided until this is complied with are denied.
24. This order contains all of the reasons for the decision within it. No further reasons shall be issued.

It is ordered that:

1. The Landlord shall pay the Tenant is \$240.40. This amount represents:
 - \$150.00 for a rent abatement for the period ending July 12, 2024.
 - \$90.40 for the reasonable out-of-pocket expenses that the Tenant has incurred.
2. The Landlord shall pay the Tenant the full amount owing by April 5, 2026.
3. If the Landlord does not pay the Tenant the full amount owing by April 5, 2026, the Landlord will owe interest. This will be simple interest calculated from April 6, 2026 at 4.00% annually on the balance outstanding.
4. The Tenant has the right, at any time, to collect the full amount owing or any balance outstanding under this order.

March 25, 2026
Date Issued

Alicia Johnson
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.