



Order under Section 31 Residential Tenancies Act, 2006

File Number: LTB-T-038298-24

In the matter of: 39 MARCHWOOD CRES
BOWMANVILLE ON L1C5K5

Between: Ceileigh Daues
Kenneth Leadbeater
Tenants

And

Nicole Kalloo
Landlord

Ceileigh Daues and Kenneth Leadbeater (the 'Tenants') applied for an order determining that Nicole Kalloo (the 'Landlord'):

- harassed, obstructed, coerced, threatened or interfered with the Tenants.
- withheld or interfered with their vital services or care services and meals in a care home.

This application was heard by videoconference on April 23, 2025.

The Landlord and the Tenants attended the hearing.

I have considered all of the evidence presented at the hearing and all of the oral testimony, and although I may not have referred to each piece of evidence individually or referenced all of the testimony, I have considered it when making my determinations.

Determinations:

1. As explained below, the Tenants proved some of the allegations contained in the application on a balance of probabilities. Therefore, the Landlord must pay the Tenants \$48.00 for the cost of filing the application.
2. The Tenancy began on October 1, 2023. The Tenants then vacated the unit on May 31, 2024.
3. The rental unit is described as a two-bedroom apartment on the main floor of a raised bungalow. Main access to the unit was via the backdoor through the backyard. The Landlord lived on the upstairs floor and had sole access to the basement. The parties had their own kitchens and bathrooms. The house also had a separate front entrance and a side entrance into a mudroom. The side entrance allowed access to the garage,

basement, main floor unit, and upstairs unit. The Landlord would primarily use the side entrance.

Harassment:

4. Section 23 of the *Residential Tenancies Act, 2006* ('Act') states that a landlord shall not harass, obstruct, coerce, threaten or interfere with a tenant. The burden of proof lies on the Tenants to show on a balance of probabilities that the Landlord engaged in such conduct.
5. The parties do not dispute that the unit was a non-smoking unit. At the time the Tenants moved into the unit with their three-year-old child, the Tenant, Ceileigh Daves ('CD'), was a smoker and would smoke outside the unit. CD found out she was pregnant again in January 2024 and stopped smoking after she received the news.
6. The Tenants testified they did not know the Landlord was a smoker when they moved in but found out a week or two into the tenancy. The Landlord would primarily smoke in the garage and said that there was ventilation there that made the smoke go out the windows. The Tenants maintained the smell of cigarette smoke become stronger, and by December 2023 they informed the Landlord they could smell it in their unit.
7. The Tenants referenced other incidents not pled in the application as background at the hearing, however, the cause of action in the application for the harassment allegation is based primarily on the incident that occurred on April 2, 2024. There was no request to amend the application for consideration of other specific incidents and allegations.
8. The parties primarily communicated either by text message or in person, and the parties do not dispute that there were often misinterpretations of the text messages. There is also no dispute that the Landlord and CD in particular did not have a good relationship. That was also made quite clear during the hearing. Consequently, the parties decided around February 2024 that only the Landlord and the Tenant, Kenneth Leadbeater ('KL'), would exchange text messages or speak in person regarding any tenancy matters.
9. On April 2, 2024, the Tenants testified they were trying to put their child to bed when the cigarette smell became too disruptive. They informed the Landlord via text but could not engage with the Landlord's reply as they were trying to put their child to bed. The Landlord then began yelling and banging on their door to get the Tenants to respond. The Tenants do not dispute that they closed the door in the Landlord's face after telling her they could not talk at that moment. The Tenants then allege that the Landlord became upset, went back upstairs, and began stomping all over the floor to the point the noise woke up their child. The Tenants confirmed the Landlord made no threats on April 2, 2024. The problem was the Landlord's yelling, swearing, pounding on the door, and stomping around upstairs after the Tenants told her that they could not speak with her at that time.
10. The Landlord disputed the Tenants' account, also wishing to raise her own issues with the Tenants' behaviour as contextual background. However, the analysis here is focused on the April 2, 2024 incident that was the subject of the harassment allegation in the application. The Landlord reiterated that the Tenants would exaggerate any issues with the tenancy, including the smell of any cigarette smoke. By April 2, 2024, the Landlord had become fed up with the Tenants' constant complaints and believed they were now going out of their way to make the Landlord's life difficult.

11. The Landlord confirmed she received a text from KL on April 2, 2024 regarding the cigarette smoke smell again, and responded that she had not smoked in the garage that day. The Landlord then went and knocked on the Tenants' door to discuss the matter further. CD then closed the door in her face, and the Landlord went back upstairs to her unit, but she never purposely stomped upstairs or around her unit.
12. Having considered the parties' evidence and submissions, I am not satisfied on the balance of probabilities that the Landlord more likely than not harassed, obstructed, coerced, threatened or interfered with the Tenants on April 2, 2024. Section 10 of the *Ontario Human Rights Code, 1990* defines "harassment" as engaging in a course of vexatious comment or conduct that is known or ought to reasonably be known to be unwelcome. The allegations pled in the application were limited to the incident on April 2, 2024. I accept that there was a poor relationship between the parties at the time of the incident; however, I am not satisfied that the April 2, 2024 incident rises to the level of severity or constitutes a "course of conduct" that meets the threshold of "harassment". The Tenants confirmed the Landlord did not threaten them, nor did the Landlord return to their unit again that night to try and re-engage in a conflict. Without any such additional factors, I am not prepared to find that the Landlord was in breach of the Act.

Substantial Interference: Withholding or Interfering with Vital Services

13. Subsection 21(1) of the Residential Tenancies Act, 2006 ('Act') states:

(1) 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, withhold the reasonable supply of any vital service, care service or food that it is the landlord's obligation to supply under the tenancy agreement or deliberately interfere with the reasonable supply of any vital service, care service or food.

14. Subsection 2(1) of the Act defines a "vital service" to include water.
15. The parties do not dispute that the Landlord turned off the water to the unit around 11:45 p.m. on April 30, 2024. The Landlord sent a text message to KL at that time to let him know she would be turning off the water to the unit that night as the toilet was running and it would drive up her utility costs. The Landlord would be staying overnight with a friend but would turn the water back on the next morning once the Tenants messaged her to let them know they were awake.
16. Based on the evidence before me, I am satisfied on the balance of probabilities that the Landlord withheld or interfered with the Tenants' vital services. No repairs (either scheduled with notice to the Tenants or for emergency reasons) were done during the time the water was shut off, nor was there evidence of a leak or flood causing significant damage to the property that would necessitate turning off the vital service at that time. Consequently, I am satisfied that the Landlord made the conscious decision to shut off a vital service contrary to the Act.

Remedies

17. The issue here is with the remedies claimed. The Tenants maintain that they vacated the unit as a result of the Landlord's actions and should be compensated the difference in the increased rent charged for their new unit for the period of one year. They also seek the cost of their out-of-pocket moving, storage, or other similar expenses.
18. As only the allegation regarding the Landlord withholding or interfering with a vital service has been proven, the remedies claimed are therefore assessed in light of the incident that occurred on April 30, 2024. The parties also did not dispute that they signed an N11 agreement to terminate the one-year fixed term tenancy early. Consequently, I do not find it reasonable in the circumstances to find that the Landlord's actions on April 30, 2024 alone caused the Tenants to move out of the unit and incur increased rent and moving expenses, especially when the Tenants confirmed that they had signed an agreement with the Landlord to terminate the tenancy. The Tenants' request for these remedies is therefore denied.
19. The Tenants also requested the Board order the Landlord pay an administrative fine for breach of the Act. The Board's Interpretation Guideline 16 provides guidance regarding the purpose of administrative fines and states that an administrative fine is a remedy to be used to encourage compliance with the Act and to deter landlords from engaging in similar activity in the future. "This remedy is not normally imposed unless a landlord has shown a blatant disregard for the [Act] and other remedies will not provide adequate deterrence and compliance."
20. In the present case, although the Landlord did withhold a vital service, it was for one night and done at a late hour when she thought the Tenants would be sleeping. Thus, I am not satisfied the Landlord's conduct showed a blatant disregard for the Act that would necessitate a fine. The request for an order for an administrative fine is therefore also denied.

It is ordered that:

1. The Landlord shall pay the Tenants is \$48.00 for the cost of filing the application.
2. The Landlord shall pay the Tenants the full amount owing by October 6, 2025.
3. If the Landlord does not pay the Tenants the full amount owing by October 6, 2025, the Landlord will owe interest. This will be simple interest calculated from October 7, 2025 at 4.00% annually on the balance outstanding.

April 2, 2026

Date Issued

Fotoula Hatzantonis

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.