



Order under Section 31 Residential Tenancies Act, 2006

Citation: Gauthier v Xia, 2026 ONLTB 26456

Date: 2026-04-01

File Number: LTB-T-088716-24

In the matter of: 2, 32 Wilkins Street
Belleville Ontario K8P1P1

Between: Joseph Gauthier Tenant

And

Bin Xia Landlord

Joseph Gauthier (the 'Tenant') applied for an order determining that Bin Xia (the 'Landlord'):

- 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 25, 2026.

The Landlord and the Tenant attended the hearing.

Preliminary issues

Request to amend

1. Pursuant to section 200(1) of the *Residential Tenancies Act, 2006*, the ("Act"), the Tenant's application is amended to reflect the dates the alleged incidents of substantial interference and harassment occurred. The Landlord received a copy of the amended application and was not opposed to the amendment filed.

Remedies moot/withdrawn

2. There is no dispute that the Tenant vacated the rental unit on November 10, 2024. As a result, the Tenant's request for the Board to order the Landlord to stop unwanted behaviour is moot and not considered in my determination.
3. At the hearing, the Tenant withdrew the request for the Board to order the Tenant to pay a fine to the Board. Accordingly, the remedy was not considered in my determination.

Determinations:

Substantial interference & Harassment

Noise complaints / Landlord's requests to vacate

4. The Tenant testified that on October 7, 2023, he contacted the Landlord via text message to advise him that his 6-year-old son found drug paraphernalia that belonged to another resident in unit 5, identified as Taylor. A photograph of the drug paraphernalia was submitted into evidence. The Tenant testified that Taylor is the Tenant's cousin.
5. The Tenant testified that despite his complaint, the Landlord did not address the concern with Taylor and instead, requested the Tenant to call police to make a report. The Tenant testified that police advised him that it was a civil matter and that the Landlord has to address the issue.
6. On October 28, 2023, the Tenant testified that there was no heat in the unit and although it was repaired the next day, the Landlord threatened him with eviction for raising the concern. The Tenant submitted a copy of the text message communication between him and the Landlord wherein the Landlord states "this is not a good place for you. You can move out."
7. On November 29, 2023, the Tenant testified that there was excessive noise coming from unit 3, between 2:00 a.m., and 4:30 a.m., and again at 7:30 a.m. The Tenant testified that he called police at approximately 3:00 a.m., but they did not attend until 8:00 a.m. The Tenant testified, that when police interviewed the residents of unit 3, they lied and stated they were at work.
8. The Tenant testified that when he raised the concern with the Landlord, the Landlord threatened him with eviction for making false noise accusations and threatened to use an N5 notice for falsifying noise complaints. A copy of the N5 notice issued to the Tenant was submitted into evidence along with the text communication between the parties. The Tenant further testified that the Landlord told him to go see a doctor, which was difficult for the Tenant as he does suffer from a mental disability but asserts that his disability does not make him hear noises.
9. On December 1, 2023, the Tenant testified that Taylor and Randy, from unit 7 were harassing him because he was doing his daily cleaning in the common areas with a spin mop and they commenced to yell at him continuously for an hour. The Tenant testified that

he addressed the concern with the Landlord, but he did not respond. Copies of the text communication was submitted into evidence.

10. The Tenant testified that on December 2, 2023, his daughter slipped on the floor causing a bang, and that Randy came up to his unit yelling and screaming at his kids to keep it down, resulting in the Tenant's children to feel scared and afraid to move in efforts not to make noise. The Tenant asserts that the screaming from Randy also occurred on December 3, 2023. The Tenant testified that he addressed the concern with the Landlord and submitted copies of the text communication, but his complaints went unanswered.
11. The Tenant testified that on February 11, 2024, Taylor was yelling, screaming and banging on his ceiling which is directly below the Tenant at approximately 11:30 p.m., until approximately 1:00 a.m. The Tenant testified that he addressed the concerns with the Landlord but again, was only advised to call police. Copies of the text communication sent to the Landlord was submitted into evidence. The Tenant testified that he called police, but they did not do anything to address the concern.
12. The Tenant testified that on March 3, 2024, residents in unit 3 were again making excessive noise between 4:00 a.m., and 7:00 a.m. The Tenant testified that the residents are students who work at night, however, when they come in, in the middle of the night, they cause excessive noise. The Tenant submitted copies of the text communication sent to the Landlord and testified that his message went unanswered.
13. The Tenant testified that on May 23, 2024, he was awoken due to Taylor smashing things around. There was no evidence submitted with respect to the Tenant addressing this issue with the Landlord.
14. In cross-examination, the Tenant testified that he did not have audio recordings of the alleged noise because he did not have equipment to capture the noises made.
15. The Tenant further testified that he and the Landlord had an agreement that he would maintain the upstairs hallway for a credit of \$50.00 per month towards his rent. The Tenant testified that the residents of unit 3 would go into the building with mud on their shoes and would not maintain the area in a clean condition. The Tenant testified that he addressed the issue with the Landlord on May 27, 2024, resulting in the Landlord calling him a small child and telling him to vacate the unit.

Garbage Complaints

16. The Tenant testified that the residents of the property are required to purchase their own garbage bag tags to dispose of the garbage. If the garbage bags are not tagged, the city will not pick them up. The Tenant testified that Taylor refused to purchase tags and that between March 7 to 14, 2024, Taylor failed to purchase tags resulting in the city not picking up the garbage, causing rodents to get into the bags. The Tenant raised the concern with the Landlord on:

- March 14, 2024
- April 4, 2024
- May 21, 2024

17. Copies of the text communication sent to the Landlord along with the photos of the scattered garbage were submitted into evidence. The Tenant testified that his messages went unanswered.

Mice complaints

18. The Tenant testified that as a result of the garbage issue, his cat caught 6 mice in the rental unit on October 4, 2024. A photograph of a single dead mouse was submitted into evidence along with a copy of the text message sent to the Landlord advising on the issue. The Tenant testified that he did not receive a response from the Landlord and at no time was pest control treatment initiated by the Landlord. The Tenant testified that he may have seen another mouse on a second date but was unable to recall such date.

19. The Tenant further testified that his neighbour in unit 1 advised him that there was a rat inside their dividing walls. Although the Tenant acknowledges he never saw the rat, he asserts that his neighbour told him that he did see a rat between the walls.

Sink leak complaints

20. The Tenant testified that his kitchen sink was leaking on September 2, 2024, and that when he raised the issue with the Landlord, the Landlord advised him to call Reliance. The Tenant argues that Reliance will not address the complaint with the tenants directly and require the owner to contact them. After repeated requests for the Landlord to contact Reliance, he finally did so. The Tenant testified that he was without a sink for 24 hours.

21. The Tenant testified that Reliance attended the unit again on September 23, 2024, to follow up on the sink, which was found to be in good working order. However, the Tenant testified that Reliance found the plastic surround in the shower to be in disrepair and recommended that the Landlord repair the plastic surround in the shower area as water would leak in between the wall and the plastic surround. The Tenant testified that a copy of the Reliance's recommendation was sent to the Landlord, but the message went unanswered. A copy of the Reliance report was submitted into evidence. The Tenant testified that as a result of his complaint of the shower, the Landlord verbally told him to move out of the property.

22. The Tenant testified that the Landlord's failure to act on the noise, mice and shower issues, left him no choice but to vacate the unit. The Tenant requests that the Board terminate the tenancy on November 10, 2024, a rent differential of \$6,504.00, and moving and storage expenses of \$881.40. A copy of the Tenant's new lease agreement, or receipts for the moving expenses were not submitted into evidence.

23. The Tenant stated, that Amberlee Vesterfelt was available to testify at the hearing, however, the testimony would only reiterate what he has already stated, as such, Ms. Vesterfelt did not participate in the proceeding.

Landlord evidence

24. The Landlord does not dispute that the Tenant has raised noise complaints with him. The Landlord testified that he lives in the US, in Michigan, and it's difficult for him to address a noise complaint in a timely manner. The Landlord testified that when he receives noise complaints from the Tenant, he contacts the individuals the Tenant complains about and addresses the concerns with them. The Landlord testified, that the residents deny the allegations, claim their sleeping, and get upset and state that it is the Tenant causing the noise.
25. The Landlord acknowledges that he has never issued any warning letters or N5 notices against any of the residents with respect to the Tenant's noise complaints. The Landlord does not deny having issued an N5 notice to the Tenant for the alleged false noise allegations. When questioned as to why letters or notices of noise were not sent to other residents, the Landlord stated that it was because the residents denied having caused the noise.
26. The Landlord takes the position that the issues are personal with the Tenant and Taylor as they are related.
27. The Landlord testified that he does not engage in communication with the Tenant because the majority of his text communications are rude, condescending and insulting. On review of the text communication from the Tenant, although he expresses his concerns, the Tenants text messages are full of foul language and accusatory towards the Landlord.
28. The Landlord testified that with respect to the comment of seeing a doctor, he meant no harm, and he was simply concerned for the Tenant. He is aware the Tenant has a mental health issue and sending him to a doctor was merely a suggestion, he had no malicious intent.
29. With respect to the garbage issue, the Landlord acknowledges that Taylor does not properly dispose of the garbage, as a result, the Landlord testified that he issued an N5 notice against Taylor but the N5 was voided, as such, he was unable to seek termination of his tenancy.
30. With respect to the mice issue, the Landlord testified that on October 10, 2024, he attended the Tenant's unit and sealed all of the holes within the unit. The Tenant argues that the sealing of holes did not remedy the situation, however, there was no evidence to suggest that the Landlord's repair was unsuccessful or that he advised the Landlord that his repair was unsuccessful.
31. The Landlord takes the position that he did not force the Tenant out of the unit. The Landlord merely suggested the Tenant leave because he continuously complained. The Landlord testified that the Tenant vacated as a result of an N4 being issued to the Tenant on November 6, 2024. The Landlord requests that this application be dismissed.

Analysis

32. Section 22 of the Act, states that 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.
33. Section 23 of the Act provides that, a landlord shall not harass, obstruct, coerce, threaten or interfere with a tenant.
34. Based on the evidence before me, on a balance of probabilities, I am satisfied that the Tenant repeatedly raised concerns with the Landlord about noise, garbage, pests and maintenance issues throughout the tenancy. The Landlord did not dispute that the Tenant made these complaints. Rather, the Landlord's position was that the complaints were exaggerated, personal in nature, or caused by disputes between the Tenant and other residents.
35. Base on the evidence before me, I find that, even if some complaints were difficult to verify, this does not relive the Landlord of the obligation to respond reasonably and professionally to issues raised by the Tenant.
36. With respect to the noise complaints, I am not satisfied that the Tenant proved every specific allegation of excessive noise exactly as described. The Tenant had no audio recordings, and all of the incidents depend solely on his testimony. In all the instances, the alleged conduct involved third parties and there was no independent evidence confirming what occurred inside other units.
37. That said, I am satisfied that the Tenant genuinely experienced ongoing concerns about noise and repeatedly brought those concerns to the Landlord. The Landlord acknowledged that the Tenant made repeated noise complaints. The text communications submitted by the Tenant support that these concerns were being raised contemporaneously. The issue in this case, is not whether every complaint was ultimately proven against another resident, but whether the Landlord's response to the Tenant was appropriate.
38. On that point, the evidence favors the Tenant. There is no dispute that neither warning letters nor N5 notices were issued against the residents the Tenant complained about because they denied causing the noise. At the same time, the Landlord did issue a notice to the Tenant for allegedly making false complaints. This uneven approach is significant. A Landlord is not required to accept a noise complaint at face value but is expected to investigate reasonably and take appropriate action if required. On the evidence before me, the Landlord appears to have treated the Tenant as the problem rather than addressing whether there was an ongoing disturbance affecting his reasonable enjoyment.
39. I also place significant weight on the text messages in which the Landlord told the Tenant words to the effect that "this is not a good place for you" and that he could or should move out. Similar comments were repeated when the Tenant raised concerns about heat, noise, cleanliness and the condition of the shower. Although I accept the Landlord's testimony

that he was frustrated by the volume and tone of the Tenant's communications, telling a Tenant to leave rather than addressing his concerns is not an appropriate response. In the context of repeated complaints during an ongoing tenancy, I find these comments were reasonably capable of intimidating the Tenant and undermining his sense of security in the rental unit.

40. I reach the same conclusion with respect to the Landlord's comments about the Tenant seeing a doctor and the suggestion that the noise was "imaginary". I accept that the Landlord says he intended no harm and that he was merely expressing concern. However, viewed objectively in the context, those comments were dismissive and demeaning. The Tenant had raised multiple concerns over a lengthy period. Rather than acknowledging or investigating them in a neutral way, the Landlord suggested that the problem was the Tenant's perception and mental health. Given the undisputed evidence that the Tenant has a mental disability, I find those comments were particularly inappropriate. Even if not intended maliciously, they amounted to conduct that a reasonable person would experience as humiliating or harassing.
41. For these reasons, I am satisfied that the Landlord substantially interfered with the Tenant's reasonable enjoyment of the rental unit and engaged in conduct amounting to harassment, coercion, obstruction, threats or interference within the meaning of the Act. The interference did not arise solely from the conduct of other occupants. It arose from the Landlord's own responses: dismissing the Tenant's concerns, threatening him with eviction for raising complaints, characterizing his concerns as imaginary, and repeatedly telling him to leave if he was unhappy.
42. With respect to the garbage issue, I am satisfied that there was merit to the Tenant's complaint. However, I am not satisfied that the Tenant proved the Landlord failed to act on the garbage issue. The Landlord did take some steps by issuing an N5 notice, although it was later voided and ultimately did not resolve the matter, I am satisfied that the Landlord reasonably responded to the Tenant's concerns.
43. With respect to the mice complaint, I accept that the Tenant caught multiple mice. However, it was also undisputed that the Landlord attended the rental unit to cover holes on October 10, 2024, 6 days after the Tenant raised the concern. Although the Tenant alleges the repair was unsuccessful, there is no persuasive evidence that the Tenant advised the Landlord that the repair was unsuccessful or that the mouse issue continued at the same level afterward. I also find that the Tenant's testimony of an alleged rat between the walls is speculative as the evidence about the rat is from a neighbour who was not present at the hearing to provide testimony. As a result, the Tenant's hearsay evidence is of limited probative value.
44. With respect to the sink leak, I accept the Tenant's evidence that he lost the use of the sink for 24 hours, however, a temporary loss of use of a sink for about one day, while inconvenient, does not on its own establish substantial interference or harassment.
45. With respect to the shower plastic surround issue, I accept the Tenant's testimony that the Reliance recommendation went unanswered. However, the evidence falls short of establishing the seriousness, duration, or impact of the issue with sufficient clarity. There is

no detailed evidence describing the condition of the shower, how long it remained unrepaired, whether it affected the Tenant's ability to bathe, or whether further follow up occurred. On a balance of probabilities, I find that this issue is another example of the Tenant's feelings being ignored by the Landlord.

46. I find that the Tenant has proven, on a balance of probabilities, that the Landlord's manner of responding to his complaints constitute a substantial interference with his reasonable enjoyment and harassment. The Tenant requests that the tenancy end on November 10, 2024 as he was forced to vacate due to the Landlord's actions.

47. I do not accept the Tenant's position that he was effectively forced to vacate solely because of the Landlord's conduct. The Tenant stated that he had no choice but to leave, but the Landlord issued an N4 on November 6, 2024, and the Tenant vacated shortly thereafter. Based on the evidence before me, on a balance of probabilities, I find that there is insufficient evidence to conclude that the tenancy should be deemed terminated by the Board as a remedy for the Landlord's conduct rather than having ended in the ordinary course following the Landlord's notice and the Tenant's departure.

48. Even if I am wrong on this issue, I also find that the Tenant's rent differential is not sufficiently supported. The Tenant claims \$6,504.00 for the difference in rent paid for the last 12-month after he vacated the unit, however, a copy of the lease agreement for the alleged new rent was not submitted into evidence. Similar, receipts for the alleged moving and storage expenses were not submitted into evidence. As such, the Tenant's claim for rent differential and out-of-pocket expenses for moving and storage expenses is denied.

49. The Tenant requests \$53.00 for the application filing fee incurred. *Interpretation Guideline 3* states that the application fee should be ordered if the applicant is successful in obtaining an order which allows the relief they asked for in the application, or substantially all of that relief. Given that the Tenant was not successful in obtaining an order for rent differential or out-of-pocket expenses for moving and storage expenses, I find that the Tenant's application is unsuccessful, and it would be inappropriate for the Board to grant the filing fee.

50. The Tenants application is dismissed.

51. This order contains all the reasons within it no further reasons shall be issued.

It is ordered that:

1. The Tenant's application is dismissed.

April 8, 2026
Date Issued

Mayra Sawicki
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.