



Order under Section 87 / 89 Residential Tenancies Act, 2006

Citation: Thespis Canada Ltd. v Genovese, 2026 ONLTB 30333

Date: 2026-04-13

File Number: LTB-L-094303-24

In the matter of: Unit 3506, 311 BAY ST
TORONTO ON M5H4G5

Between: Thespis Canada Ltd. Landlord

And

Daniel Genovese Former Tenant

Thespis Canada Ltd. (the 'Landlord') applied for an order requiring Daniel Genovese (the 'Former Tenant') to pay the rent and daily compensation that the Former Tenant owes.

Thespis Canada Ltd. (the 'Landlord') applied for an order requiring Daniel Genovese (the 'Former Tenant') to pay the Landlord's reasonable out-of-pocket costs that the Landlord incurred or will incur to repair or replace undue damage to property. The damage was caused wilfully or negligently by the Former Tenant, another occupant of the rental unit or someone the Former Tenant permitted in the residential complex.

This application was heard by videoconference on January 15, 2026.

The Landlord's agent, Daniel Javor, the Landlord's legal representative, Zenabe Durant, the Former Tenant's legal representative, Justin Marchand, and the Former Tenant attended the hearing.

The Landlord called Colleen Doiren ("CD") as a witness.

Determinations:

Preliminary Issue- amendment and monetary jurisdiction

1. At the hearing, the Former Tenant's legal representative challenged the Board's jurisdiction to order more than \$35,000.00 to the Landlord. The Landlord filed the application with the Board on November 25, 2024, claiming \$63,321.30, and waived the excess to remain within the Board's monetary jurisdiction of \$35,000.00 at that time. The Landlord subsequently filed a request to amend the application following an increase to the Board's

monetary jurisdiction and claimed a revised amount of \$65,176.79, waiving the excess to remain within the updated monetary jurisdiction of \$50,000.00.

2. The Former Tenant's legal representative argued that because the application was filed before the monetary jurisdiction increased, the Landlord is not entitled to more than \$35,000.00.
3. Section 207(1) of the *Residential Tenancies Act, 2006* (the 'Act') provides that the Board may order payment of an amount up to the greater of \$10,000.00 and the monetary jurisdiction of the Small Claims Court. Section 207(1) speaks to the Board's jurisdiction at the time it issues its order, not at the time the application was filed. When this order is issued, the Board's monetary jurisdiction is \$50,000.00. Accordingly, the Board has jurisdiction to order up to \$50,000.00, and the amendment is permitted. The Former Tenant's preliminary objection is dismissed.
4. As explained below, the Landlord proved the allegations contained in the application on a balance of probabilities in part. The remedies granted are set out below.

Service

5. The Former Tenant attended the hearing and was represented by counsel. There was no issue with proceeding, and I am satisfied that the application and Notice of Hearing were properly served and that the matter proceeded fairly.
6. The Former Tenant vacated the rental unit on July 15, 2024. The application was filed on November 25, 2024, which is within one year after the Former Tenant ceased to be in possession of the rental unit.

Rent and daily compensation owing

7. The lawful rent was \$8,507.50. It was due on the 1st day of each month.
8. Based on the Monthly rent, the daily rent/compensation is \$279.70. This amount is calculated as follows: \$8,507.50 x 12, divided by 365 days.
9. The Former Tenant vacated the rental unit on July 15, 2024, without giving notice of termination in accordance with the Act. No agreement to terminate the tenancy was made, and the Landlord did not give notice to terminate the tenancy. Accordingly, s. 88(1) of the Act applies to the determination of arrears owing.
10. Under s. 88(1), rule 1 of the Act, where a tenant vacates after giving notice that was not in accordance with the Act, arrears are owing for the period ending on the earliest termination date that could have been specified in a notice given in accordance with s. 47 of the Act. The Former Tenant's email of July 15, 2024, advised the Landlord that he had moved out. Even treating that email as notice, it was not given in accordance with the Act. For a monthly tenancy, s. 44(2) of the Act requires at least 60 days' notice effective on the last day of a rental period. The earliest compliant termination date that could have been specified in a notice given on July 15, 2024, is September 30, 2024.

11. The Former Tenant himself acknowledged in his December 2024 email correspondence that he did not give 60 days' notice. In closing submissions, the Former Tenant's representative conceded that rent is owing for July and agreed that some amount is owing. I find that arrears are owing through September 30, 2024.
12. Section 88(4) of the Act requires that consideration be given to whether the Landlord took reasonable steps to minimize losses in accordance with s. 16. The Former Tenant raised failure to mitigate in closing submissions. The Landlord's direct evidence on this point was limited. However, the repair invoices in evidence establish that the unit required significant remediation work beginning in September 2024 and continuing through October 2024, including cabinet repair, odour treatment, mold removal, and repainting.
13. I find that this work was a necessary precondition to re-renting the unit and that the Landlord's pursuit of that remediation during the arrears period constitutes a reasonable step to minimize losses. On the evidence before me, I am satisfied that the Landlord took reasonable steps to minimize losses, and I make no reduction to the arrears on that basis.
14. The rent arrears and daily compensation owing to September 30, 2024 are \$25,522.50.
15. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

Compensation for damage

16. The Landlord claims compensation both for physical damage to the rental unit and for furniture that was removed and replaced with inferior substitutes by the Former Tenant. Some argument was raised at the hearing as to whether missing furniture falls within the scope of "damaged property" under s. 89 of the Act.
17. I find that the phrase "damaged property" in s. 89 is sufficiently broad to include both physically damaged and missing property. The furnishings in a furnished rental unit form part of the rental unit and constitute property within the meaning of the section. From a landlord's perspective, missing property is the same as property that has been destroyed, it is gone and cannot be repaired but must be replaced.
18. Where a landlord can establish that a tenant wilfully or negligently caused property to go missing, it would be illogical to exclude that from the concept of undue damage. To do so would force a landlord to pursue compensation in two different forums: physical damage at the Board and missing property in Small Claims Court. The purpose clause in s. 1 of the Act provides in part for the adjudication of disputes, and s. 168(2) provides that the Board has exclusive jurisdiction with respect to all matters in which jurisdiction is conferred on it by the Act. Accordingly, I am not prepared to exclude missing items from the scope of s. 89.
19. To succeed on a s. 89 application the Landlord must establish that undue damage has occurred, noting that normal wear and tear is excluded; that the Former Tenant, an occupant or a guest wilfully or negligently caused each item of damage claimed; whether or not repairing the damage is reasonable and if so the reasonable cost of repair; and where repair is not possible or reasonable, the reasonable cost of replacement.

20. CD testified to the condition of the unit following the Former Tenant's departure on July 15, 2024. The Landlord's agent attended the unit on July 23, 2024 and documented the damage by photograph and video. CD testified to the items listed in the Amended Schedule A as representing the original furnished items in the unit, and that those items were either missing or had been replaced with inferior substitutes by the Former Tenant.
21. I find that the Former Tenant wilfully or negligently caused undue damage to the rental unit. I accept CD's testimony, which was uncontested. The Former Tenant presented no evidence at the hearing and the only challenge to the damage evidence came through cross-examination and closing submissions.
22. I accept the following damage was established on a balance of probabilities: smashed bathroom cabinet corners, shower door waterproofing removal and mold throughout the shower, damage to built-in office cabinet corners, light fixture damage in the kitchen and bathroom, odour permeating the unit including the bathroom and closet consistent with cat urine, yellowed and mold-stained curtains, mosquito net damage to the east window, rust in the sink, and wall damage from art hanging.
23. The Former Tenant conceded the cabinet door damage and acknowledged in closing that his cat potentially urinated in the unit. I further find that the Former Tenant wilfully removed original furnished items belonging to the Landlord and replaced them with inferior substitutes. The Former Tenant's own December 2024 email correspondence confirms that he removed the original furniture and left his own replacements, which he acknowledged were of lesser value than he initially represented.
24. I do not find that the foyer marble floor grouting damage or the bathroom counter stain are compensable under s. 89. CD confirmed on cross-examination that the floor damage in the foyer was pre-existing at the time of move-in and that the counter stain was also pre-existing. These items do not satisfy the requirement that the damage result from the Former Tenant's wilful or negligent conduct.
25. I have also considered the damage visible to the desk surface in the photographic evidence. I find that the scratches and surface wear to the desk are consistent with normal wear and tear from regular use over the course of the tenancy and do not constitute undue damage within the meaning of s. 89. I make no award for the desk.
26. On the costs of repair, the Landlord tendered two invoices from Consider It Fixed totalling \$11,367.80. The invoices are lump-sum rather than itemized by task. The Landlord also filed an affidavit from Juan Casalins, the tradesperson who performed the work. Mr. Casalins did not attend the hearing to testify and accordingly his affidavit carries limited weight.
27. However, his affidavit explains that itemization was not practicable given the multi-stage nature of the repairs, and his description of the unit's condition on September 5, 2024, near-permanent damage, strong foul odour, and extensive animal urine contamination affecting the wardrobes, furniture, and bathroom marble, is consistent with CD's uncontested testimony and the videographic and photo evidence. The scope of work described in the invoices corresponds substantially to the damage I have accepted as proven. However, Invoice 1063 includes work attributable to the pre-existing foyer conditions, specifically entrance hall grouting removal, cleaning and re-grouting, and

entrance hall walls mouldings cleaning and painting. Because the invoices are lump-sum I cannot isolate the precise cost of that work. I apply a reasonable global reduction to account for the portion of the invoiced work attributable to the pre-existing conditions. I find the reasonable repair costs are \$9,000.00.

28. On the furniture replacement claim, the Landlord claims \$36,285.49 through a redesign firm. As noted above, I am satisfied that the wilful removal and replacement of original furnished items by the Former Tenant constitutes damage within the meaning of s. 89. The reasonable replacement costs are those actually incurred by the Landlord through the redesign firm, using the actual replacement cost rather than the original values claimed in the Amended Schedule A. I allow replacement costs for the following items.

Living Room

29. The Landlord claimed a big corner sofa as an original furnished item. The redesign firm replaced this with a sofa (\$1,199.00) and two Eros accent chairs (\$1,540.00). I am satisfied that the accent chairs form part of the replacement for the original corner sofa seating. The combined replacement cost of \$2,739.00 is less than the original claimed value of \$3,400.00 for the corner sofa, and I find this to be a reasonable replacement. I also allow the end table (\$239.99), side table (\$139.99), coffee table (\$479.20), rug (\$540.00), and floor lamp (\$344.00) as original furnished items that were removed or replaced. I do not allow the cushion covers, olive tree, framed canvas, worley cushion, or pillow insert as these are decorative accessories that were not part of the original furnished items. The living room pre-tax subtotal is \$4,482.18.

Dining Room/ Kitchen

30. The Landlord claimed a dining table, dining chairs, light fixture, counter chairs, and sideboard as original furnished items. I allow the actual replacement costs as follows: sideboard (\$1,599.00), dining table (\$1,199.00), mirror (\$319.99), lamp (\$99.99), chandelier (\$599.20), and elbow chairs (6) (\$1,800.00). I do not allow the art prints, frames, or picture mats as these are decorative and were not part of the original furnished items claimed in the Amended Schedule A. The dining room pre-tax subtotal is \$5,617.18.
31. The Landlord claimed counter stools as original furnished items. I allow the actual replacement cost: counter stools (3) (\$791.70). The kitchen pre-tax subtotal is \$791.70.

Bedroom

32. The Landlord claimed a king bed, mattress, nightstands, dresser, bench, table lamps, and carpet as original furnished items. I allow the actual replacement costs as follows: bed (\$1,599.00), mattress (\$599.00), nightstands (2) (\$998.00), dresser (\$1,699.00), bench (\$589.99), table lamps (2) (\$199.98), and rug (\$972.00). I do not allow the bedding and linen items as these are consumables that would most likely require replacement regardless of any damage caused by the Former Tenant. I do not allow the wall mirror, lumbar pillow, blanket, or art as these are either not in the original Amended Schedule A or are decorative. The bedroom pre-tax subtotal is \$6,656.97.

Entry/ Office/ Curtains

33. I allow the accent mirror (\$169.99) as an original furnished item evidenced in the before photographs. I do not allow the ottomans or console table as these are not clearly evidenced in the before photographs as original landlord items. The entry pre-tax subtotal is \$169.99.
34. I allow the light fixture (\$169.99) and table lamp (\$129.00) as original furnished room items. I do not allow the writing desk replacement as I have found the desk surface wear constitutes normal wear and tear. I do not allow the dining chair, art pieces, or other decorative items as these are not compensable under s. 89. The guest room pre-tax subtotal is \$298.99.
35. The evidence establishes that the sheers and linen curtains were yellowed and mold-stained. The Former Tenant acknowledged in his December 2024 email that replacement of the sheers was warranted. I allow the linen curtain replacement (\$677.48) and curtain hooks (\$95.92) but not the full beige/white drapery replacement, which is not sufficiently supported on the evidence. The curtain pre-tax subtotal is \$773.40.

Additional Charges

36. I do not allow the storage costs (\$4,819.90), moving costs (\$1,960.00), or shipping costs (\$984.09) as these are not reasonable costs to repair or replace damaged property within the meaning of s. 89. I do not allow the accessories and bulbs charge (\$1,001.98) as it is too vague to be tied to specific proven damage items.
37. The total pre-tax replacement costs allowed are \$18,790.41, calculated as follows: living room \$4,482.18, dining room \$5,617.18, kitchen \$791.70, bedroom \$6,656.97, entry \$169.99, guest room \$298.99, and curtains \$773.40. Applying HST at 13%, the total replacement costs including tax are \$21,233.16.
38. The total damage award is \$30,233.16, being repair costs of \$9,000.00 and replacement costs of \$21,233.16.
39. The Landlord collected a rent deposit of \$7,999.00 from the Former Tenant and this deposit is still being held by the Landlord. The amount of the rent deposit and interest on the rent deposit is applied to the amount the Tenant is required to pay.
40. Interest on the rent deposit, in the amount of \$360.50 is owing to the Former Tenant for the period from December 13, 2022, to September 30, 2024.

It is ordered that:

1. The Former Tenant shall pay to the Landlord \$25,522.50, which represents rent and compensation owing up to September 30, 2024.
2. The Former Tenant shall also pay to the Landlord \$30,233.16, which represents the reasonable costs the Landlord incurred as a result of the damage.
3. The Former Tenant shall pay to the Landlord \$186.00 for the cost of filing the application.

4. The Landlord owes \$8,359.50 which is the amount of the rent deposit and interest on the rent deposit, and this is deducted from the amount owing by the Former Tenant.
5. The total amount the Former Tenant owes the Landlord is \$47,581.66.
6. If the Former Tenant does not pay the Landlord the full amount owing on or before April 24, 2026, the Former Tenant will start to owe interest. This will be simple interest calculated from April 25, 2026 at 4.00% annually on the balance outstanding.

April 13, 2026
Date Issued

Colin Elsby
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
Toronto ON M7A 2G6

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