



**Order under Section 69
Residential Tenancies Act, 2006**

Citation: La v Mohammed, 2024 ONLTB 55055

Date: 2024-07-31

File Numbers: LTB-L-029276-22 and
LTB-T-079567-22

In the matter of: 309, 121 MCMAHON DR
NORTH YORK ON M2K0C1

Between: Eugene La Landlord

And

Minhaj Azad Abdul Kalam Mohammed Tenant

In LTB-L-029276-22 (the "L1 Application") Eugene La (the 'Landlord') applied for an order to terminate the tenancy and evict Minhaj Azad Abdul kalam Mohammed (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

In LTB-T-079567-22 (the "T6 Application") the Tenant applied for an order determining that 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.

These applications were heard by videoconference on March 12, 2024 and October 2, 2025.

The Landlord, the Landlord's legal representative, Francisco Gomez, and the Tenant attended the hearing on March 12, 2024. Only the Landlord's legal representative, Francisco Gomez, and the Tenant attended the hearing on October 2, 2025.

Determinations:

The L1 Application

1. The Landlord served the Tenant with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). The Tenant did not void the notice by paying the amount of rent arrears owing by the termination date in the N4 Notice or before the date the application was filed.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. The Landlord submits the Tenant vacated the rental unit on August 2, 2022. The Tenant disputes this date and submits that he vacated the rental unit on June 14, 2022.
4. The Landlord testified that he does not personally know what date the Tenant vacated but that he was told by his Property Manager that the Tenant advised the Property Manager he vacated on August 2, 2022. The Landlord's property manager did not attend to testify and therefore, the Landlord is relying on hearsay evidence on this point.

5. The Tenant testified he booked the elevator for his move on June 13, 2022, and that he returned the keys for the rental unit on June 14, 2022. The Tenant testified he signed a new lease agreement for another rental unit that was to commence on July 1, 2022. In cross-examination the Tenant testified that between June 14, 2022, and July 1, 2022, he stored his belongings at his mother's house and also in his partner's garage. The Tenant further testified that he had recently gone through a divorce, so he didn't have a lot of furniture and personal property that required storage. The Tenant testified that he did not give the Landlord notice in accordance with section 43(1) of the Act.
6. On the issue of the date the Tenant vacated the rental unit I prefer the evidence of the Tenant that he vacated the rental unit on June 14, 2022. I say this for the following reasons.
7. The Landlord testified he does not know when the Tenant vacated and is relying on the hearsay statement of the Property Manager. While hearsay evidence is admissible at the Board, it is generally given less weight than credible oral testimony that is subject to cross-examination. The Tenant has a clear recollection of booking the elevator required for his move from the rental unit and provided a reasonable explanation for where he stored his belongings for the time between when he moved out of the rental unit and when he was able to move into his new unit.
8. Section 88 (1) of the *Residential Tenancies Act, 2006*, S.O., 2006, c.17('the Act'), applies in calculating rent arrears where "a tenant abandons or vacates a rental unit without giving notice of termination in accordance with this Act and no agreement to terminate has been made *or the landlord has not given notice to terminate the tenancy*". The Notice of Termination tells the Tenant that they must pay the rent or move out by the termination date in the notice. In this case, the Landlord served an N4 Notice and the Tenant moved out pursuant to that notice. By operation of law, the tenancy terminated on the termination date in the notice and the arrears must be calculated to the date the Tenant vacated the rental unit.
9. The rent arrears are therefore calculated up to June 14, 2022 which is the date I have determined the Tenant vacated the unit.
10. The lawful rent is \$2,350.00. It was due on the 1st day of each month.
11. The Tenant has not made any payments since the application was filed.
12. The rent arrears owing to June 14, 2022, are \$26,931.64
13. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
14. The Landlord collected a rent deposit of \$2,350.00 from the Tenant and this deposit is still being held by the Landlord. The rent deposit is applied to the arrears of rent because the tenancy terminated.
15. Interest on the rent deposit, in the amount of \$31.68 is owing to the Tenant for the period from May 1, 2021, to June 14, 2022.

The T6 Application

16. The issue in the T6 application is whether the Landlord has met its obligation under section 20(1) of the *Residential Tenancies Act, 2006* ('the Act'). The Tenant alleged the Landlord failed to do so in relation to the following:

- 1) Broken refrigerator
- 2) Damaged bathtub
- 3) Broken closet door and broken shelf in the bathroom
- 4) Inoperable smoke detector
- 5) Nonfunctioning lights

17. The Tenant is seeking 100% rent abatement for the period of 13 months.

18. Section 20(1) provides as follows:

A landlord is responsible for providing and maintaining a residential complex, including the rental units in it, in a good state of repair and fit for habitation and for complying with health, safety, housing and maintenance standards

19. In *Onyskiw v. CJM Property Management*, 2016 ONCA 477, the Court of Appeal for Ontario determined that a contextual approach should be adopted when considering a landlord's potential breach of subsection 20(1) of the Act and a breach will not be found if the landlord's response to a maintenance issue was reasonable in the circumstances.

Refrigerator

20. The Tenant's evidence is that the refrigerator in the rental unit was persistently leaking water and causing food to spoil. He first notified the Landlord of this issue on May 2, 2021, and followed up on June 30, 2021. Between those dates, the Tenant stated he sent multiple text messages to the Landlord, including photos and videos showing the condition of the refrigerator though the Tenant did not provide any of those purported texts in evidence. According to the Tenant, the Landlord did not respond until approximately five months later, advising that he had been hospitalized due to illness and had contracted COVID. At that time, the Landlord agreed to replace the fridge and provided a used appliance that was not fully assembled. The Tenant described this replacement as old, rusty and degraded. The Tenant indicated that it remained in the living room for four days before being installed. The Tenant further indicated that a second replacement fridge was eventually provided, approximately ten months after the Landlord was first notified of the issue.

21. The Tenant explained that, in the interim, he purchased a mini fridge; however, this appliance did not meet the needs of his household. At the relevant time, the Tenant had two-year-old twin daughters. He indicated that the mini fridge could hold only two to three days' worth of food, which required him to make frequent grocery trips.

22. The Landlord could not recall when he was first notified of the refrigerator issue but acknowledged becoming aware of it "at some point." He indicated that he sent a contractor

to inspect the appliance and was advised that the fridge was functioning properly, aside from damaged seals that caused condensation buildup and leaking. The Landlord was unable to recall when the contractor attended the unit but estimated that it may have been within one month of the Tenant raising the issue. No documentary evidence, such as a report or receipt, was submitted to corroborate the contractor's assessment.

23. Despite receiving information from the contractor that the refrigerator was otherwise functional, the Landlord indicated that he purchased a replacement fridge through Facebook Marketplace or Kijiji to make the Tenant happy. He further indicated that, after the Tenant expressed dissatisfaction with that appliance, he obtained another replacement. The Landlord asserted that he was unable to deliver the second replacement because the Tenant did not permit access to the unit. The Landlord could not recall when this additional replacement was offered.
24. In any application before the LTB, the applicant bears the burden of proof. In this case, the Tenant must satisfy me, on a balance of probabilities, that his version of events is more likely than the Landlord's. The challenge in this matter is that neither party provided reliable documentary evidence, and both had difficulty recalling even approximate dates. While the Tenant submitted copies of text message exchanges with the Landlord, none were dated. Similarly, the photos of the first replacement refrigerator confirm its condition but provide no indication of when the photos were taken.
25. I find that the totality of the evidence and testimony presented does not more reliably support one party's account over the other. Accordingly, I find that the Tenant has not met his burden of proving that the Landlord failed to comply with their maintenance duties as it relates to the refrigerator in the unit.

Damaged Bathtub

26. The Tenant's evidence is that the day after he moved into the rental unit on May 2, 2021, he observed damage to the bathtub that appeared consistent with chemical staining. He described areas where the porcelain coating had been corroded and noted the presence of mould around the tub caulking. The Tenant's evidence also confirms that he contacted the Landlord by text message on May 2, 2021, requesting a call to discuss these issues.
27. The Tenant's position is that the Landlord failed to address the condition of the bathtub at any time during the tenancy, despite repeated notice. Although the unit contained two bathrooms, the Tenant explained that only one had a bathtub suitable for bathing his children. Due to the condition of the tub, he was uncomfortable using it and instead relied on a portable bathtub for his children.
28. The Landlord did not attend the hearing on October 2, 2025, to dispute the Tenant's evidence. On the basis of the undisputed evidence before me, I am satisfied that the bathtub was in a state of disrepair and that this condition persisted throughout the tenancy without response from the Landlord. I therefore find that the Landlord breached their maintenance obligations in relation to the bathtub.

29. In determining the appropriate rent abatement, I have considered that the rental unit contained two bathrooms and that the Tenant retained access to a functioning shower in the second bathroom. I have also considered the inconvenience caused to the Tenant, particularly with respect to bathing his children. In the circumstances, I find that a rent abatement of five percent is appropriate.
30. With respect to the period of entitlement, the Tenant filed his application on December 21, 2022. Pursuant to section 29(2) of the Act, rent abatement may only be awarded for the one-year period prior to filing, namely from December 21, 2021, until the Tenant vacated the unit on June 15, 2022. There is no dispute that the Tenant's lawful rent was \$2,350.00 per month, resulting in a per diem rent of \$77.26. Accordingly, the Landlord is ordered to provide a rent abatement of \$687.95, calculated as follows:

- December 21, 2021 to December 31, 2021 (11 days): $\$849.86 \times 5\% = \42.49
- January 1, 2022 to May 31, 2022 (5 months): $\$11,750.00 \times 5\% = \587.50
- June 1, 2022 to June 15, 2022 (15 days): $\$1,158.90 \times 5\% = \57.96

Broken closet door and shelf in bathroom

31. The Tenant submitted the parties' lease agreement into evidence. Page 4 of the agreement confirms that the Landlord agreed to repair the broken mirror glass door in the main hallway, secure the loose shelf in the first bathroom, and repair the carpet ends in each room within 30 days of the Tenant moving into the unit. The Landlord's written acknowledgment of the required repairs to the hallway closet door and the bathroom shelf satisfies me that these items were identified as being in a state of disrepair at the outset of the tenancy.
32. The Tenant's evidence is that the closet door in the main hallway was never installed and remained leaning inside the closet for the duration of the tenancy. He further indicated that, despite repeated reminders, the Landlord did not repair the loose shelf in the bathroom at any time during the tenancy.
33. The Tenant explained that the unsecured closet door reduced the usable storage space in the hallway closet. He also described the bathroom shelf as unstable to the point that placing items on it caused it to detach from the wall, resulting in ongoing storage difficulties.
34. While I accept that the Landlord failed to complete these repairs as promised and that the issues persisted until the end of the tenancy, I find that their overall impact on the Tenant was minor. In the circumstances, I find that a rent abatement of 2% is appropriate to address the Landlord's breach of maintenance obligations in relation to these two issues. Applying the same time-period calculations set out above, the Landlord is ordered to provide a rent abatement of \$275.18.

Inoperable smoke detector and inoperable lights

35. The Tenant's evidence is that the smoke detector in the rental unit was not functioning, despite his efforts to replace the batteries. He advised the Landlord of the issue within the first week of the tenancy. When the issue had not been addressed within approximately three weeks, the Tenant purchased and installed a replacement smoke detector himself.
36. The Tenant also indicated that, upon moving into the unit, several lights including those in the kitchen, living room, and bedroom were not working. He replaced the bulbs in most areas, which resolved those issues. However, the living-room light required electrical repair, and the Tenant arranged for and paid an electrician to complete the work. While the Tenant could not recall the exact date the electrician was hired, he confirmed that all the issues with the lights had been resolved by August 2021.
37. These issues fall outside the applicable limitation period. As previously noted, the Tenant may only seek remedies for issues arising within one year prior to the filing of the application. Given that the smoke detector and lighting issues were resolved by May 2021 and August 2021 respectively, the Tenant is beyond the limitation period to claim relief for these matters.
38. Since each party was successful in proving their respective applications in full or in part, each party will be ordered to pay the other party's filing fee.
39. 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.
40. This order contains all of the reasons for the decision within it and no further reasons will be issued.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated as of June 14, 2022, the date the Tenant moved out of the rental unit.
2. The Landlord shall pay to the Tenant a total rent abatement of \$963.13.
3. The Landlord shall also pay the Tenant \$48.00 for the cost of filing the application.
4. The total amount the Landlord owes the Tenant is applied against the rent arrears owing to the Landlord by the Tenant.
5. The Tenant shall pay to the Landlord \$23,724.83 for rent arrears owing up to the date the Tenant moved out of the rental unit and the cost of filing the application less the rent deposit and interest the Landlord owes on the rent deposit and less the amount the Landlord owes the Tenant for rent abatement and the Tenant's filing fee. *See Schedule 1 for the calculation of the amount owing.

6. If the Tenant does not pay the Landlord the full amount owing on or before April 27, 2026, the Tenant will start to owe interest. This will be simple interest calculated from April 28, 2026, at 4.00% annually on the balance outstanding.

April 16, 2026
Date Issued

Melissa Anjema
Member, Landlord and Tenant Board

15 Grosvenor St, 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.

Schedule 1
SUMMARY OF CALCULATIONS

A. Amount the Tenant must pay as the tenancy is terminated

Rent Owing To Move Out Date	\$26,931.64
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	\$0.00
Less the amount the Tenant paid into the LTB since the application was filed	\$0.00
Less the amount of the last month's rent deposit	\$2,350.00
Less the amount of the interest on the last month's rent deposit	\$31.68
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	\$963.13
Less the Tenant's filing fee	\$48.00
Total amount owing to the Landlord	\$23,724.83