



## **Order under Section 31 Residential Tenancies Act, 2006**

**File Number:** LTB-T-051193-25

**In the matter of:** 4 MOORECROFT CRES  
SCARBOROUGH ON M1K3V1

**Between:** Kimberly Nguyen Tenant

**And**

Rachelle Nina Rodas Landlord

Kimberly Nguyen (the 'Tenant') applied for an order determining that Rachelle Nina Rodas (the 'Landlord') entered the rental unit illegally.

This application was heard by videoconference on April 16, 2026.

Only the Landlord and the Landlord's legal representative, Jeff Shabes, attended the hearing.

As of **10:16am**, the Tenant not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing.

The Tenant did sign into the hearing at 11:19am, however, the matter had already been disposed of by that time.

### **Determinations:**

1. Since the Tenant did not attend the hearing to support their application, I find that this application has been abandoned.

### **Costs**

2. At the hearing the Landlord requested that costs be ordered against the Tenant for knowingly filing an application beyond the LTB's time limitations pursuant to subsection 29(2) of the *Residential Tenancies Act, 2006* (the 'Act'). Essentially filing a frivolous and meritless claim against the Landlord which has caused unnecessary expense to the Landlord and public resources in scheduling the application and responding to the Tenant's request to extend the deadline, which is clearly out of time by well over a year.
3. The Landlord relies in part on the endorsement issued by the Board on April 15, 2026, based on the Tenant's request to the LTB that was filed on April 9, 2026 to extend the statutory requirements to allow the application to proceed.

4. The Landlord further submits that costs should be ordered because the Tenant was made aware of this issue several times leading up to the hearing, including at the Adjudicative Case Conference (ACC) what was heard under file LTB-T-051197-25 based on their T6 application on December 18, 2025.
5. Additionally, the LTB's email correspondence dated March 18, 2026 from the Tenant notes their awareness of the statutory limitation period based on the December 18<sup>th</sup> ACC and their attached and rather back-dated Request to Extend Time form dated June 21, 2025 further acknowledges the statutory limitations (see DOC-7664985).
6. Furthermore, in response to the Tenants ongoing inquiry about the extension of time being approved, on March 30, 2026 the LTB advised the Tenant that their Request to Extend Time form was being rejected on the basis that they were out of time for filing their application.
7. Rather than withdrawing their application in advance of the hearing clearly knowing that they were statute barred from proceeding, they instead uploaded their June 21, 2025 back-dated request for an extension of time to the Tribunals Ontario Portal (TOP) on April 9, 2026. After their request was denied by endorsement dated April 15, 2026, the Tenant failed to take reasonable steps to withdraw their application or to attend the hearing to request to withdraw the application leaving the Landlord with no choice but to attend the hearing causing them additional legal costs.
8. The LTB's Guideline 3 on Costs is not binding on the Board, but I find it informative and reasonable and see no reason to depart from it in these circumstances.
9. The LTB's Interpretation Guideline 3 says in part:

The Board should not use its power to order costs in a way which would discourage landlords and tenants from exercising their statutory rights. Generally, costs may be ordered where a party's conduct in the proceeding was unreasonable...

Before ordering a party, a party's agent or a party's legal representative to pay costs, a Member should ensure that the person who will be affected by the order for costs has an opportunity to make submissions on the matter.

**However, if a party has received notice of a hearing and does not attend a hearing, or if a party's agent or legal representative is on the record as representing a party and does not attend a hearing, a Member may proceed to make an order for costs without notifying the person affected of the intention to do so, provided that the failure to attend the hearing delayed the process unnecessarily or caused unnecessary expense to the other party... (Emphasis Added)**

A Member has the discretion to require a party, a party's agent or a party's legal representative to pay, as costs, any representation or preparation expenses of another party where the conduct of the party, a party's agent

or a party's legal representative was unreasonable. Conduct is unreasonable if it causes undue expense or delay and includes the following: 1. Bringing a frivolous or vexatious application or motion; Taking unnecessary steps in a proceedings; Any misconduct at the hearing or in the proceedings; Raising an issue which is irrelevant to the proceedings and continuing to pursue that issue after the Member has pointed out that it is irrelevant; etc..

10. The *Statutory Powers Procedure Act* (the 'SPPA') under section 23(1) states that a tribunal may make such orders or give such directions in proceedings before it as it considers proper to prevent abuse of its processes.
11. I find that the Tenants repeated requests for an extension of time after knowing that the application was not filed in time amounts to misconduct in the proceedings and I also find that the application is frivolous and that the Tenant knew the application was out of time and still insisted on proceeding. The Tenant's conduct is unreasonable under all of the circumstances, and I do find Board costs of \$100.00 is appropriate to deter the Tenant from similar future conduct and to recover some of the public's costs to the LTB.
12. The Landlord did not request their own costs for having to attend the hearing and therefore I will not consider such additional costs.

**It is ordered that:**

1. The Tenant's application is dismissed.
2. The Tenant shall pay to the Board \$100.00 for Board costs on or before May 2, 2026.

**April 21, 2026**  
**Date Issued**

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Terri van Huisstede  
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.

Payment of the Board costs must be made to the Board by the deadline set out above. The fine can be paid by certified cheque, bank draft or money order made payable to the Minister of Finance.