



Order under Section 31 Residential Tenancies Act, 2006

Citation: Tavernese v Janev, 2025 ONLTB 49886

Date: 2025-11-07

File Number: LTB-T-059930-23

In the matter of: Lower, 16 Boem Avenue
Toronto ON M1R3T1

Tenant

Between: Marcia Tavernese

And

Landlord

Boshko Janev

Marcia Tavernese (the 'Tenant') applied for an order determining that Boshko Janev (the 'Landlord'):

- entered the rental unit illegally.
- substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenant or by a member of their household.

This application was heard by videoconference on June 24, 2025 and October 31, 2025.

The Tenant, the Landlord, and the Landlord's legal representative, Elaine Page, attended the hearings. The Tenant's witness, Melissa Konstantinou (M.K.), attended the hearing on June 24, 2025. The Landlord's witness, Jennifer Wong (J.W.), attended both hearing dates.

Determinations:

1. As explained below, the Tenant did not prove the allegations contained in the application on a balance of probabilities. Therefore, the application is dismissed.

Preliminary Issues

2. At the outset of the hearing, the Landlord's legal representative submitted that the Tenant had not served her evidence in accordance with the Rules and that portions of the Tenant's amended application lacked sufficient detail.
3. This matter was previously before the Board for an Adjudicative Case Conference (ACC) on October 31, 2024, which both parties attended. The Board's records confirm that the Landlord has had access to the Tribunals Ontario Portal ("the portal") since August 22, 2023. The Tenant's evidence has been available in the portal since October 20, 2024.

4. The Landlord's legal representative advised that she was only recently provided with a PIN to access the portal and submitted that uploading evidence to the portal does not satisfy the Tenant's obligation to serve evidence.
5. I acknowledge that the Rules require parties to disclose evidence to the opposing party. However, Rule A3.1 requires the Tribunal's rules to be interpreted liberally and purposively. In these circumstances, I find that the Landlord suffered little to no prejudice. The Landlord had access to the Tenant's evidence prior to the ACC and would reasonably have been able to review and discuss that evidence at the case conference. Accordingly, the Tenant was permitted to rely on the evidence uploaded to the portal.
6. The Tenant requested to amend her application on November 8, 2024. The Landlord did not oppose the amendment itself but objected to one allegation on the basis that it lacked sufficient particulars. Specifically, the Landlord submitted that the allegation that the Landlord looked into the Tenant's windows did not include specific dates and should therefore be dismissed.
7. The Tenant's application alleges this conduct occurred every evening and that her tenancy lasted approximately one month.
8. I do not find that the amended application lacks sufficient detail. The Tenant stated in her application that "every evening the landlord, Boshko Janev, cleans the windows or cleans around them," and she provided an explanation as to why this conduct substantially interfered with her reasonable enjoyment. Given that the Tenant specified the frequency of the conduct and the limited duration of the tenancy (less than 1 month), the Landlord had sufficient information to understand and respond to the allegations. The Landlord knew when the Tenant moved in, when she vacated, and that the alleged conduct occurred daily during that period. The objection was therefore denied, and the hearing proceeded on the merits of the Tenant's amended application.

Substantial interference with reasonable enjoyment

9. It was undisputed that the rental unit is a basement unit in the Landlord's home and that the Landlord occupies the upper level.
10. The Tenant moved into the rental unit with her 13-year-old daughter on June 30, 2023. Throughout the tenancy, the Landlord regularly performed exterior cleaning and yard maintenance, including daily leaf blowing around the basement windows and squeegeeing the windows immediately after rainfall. The Landlord acknowledged engaging in this conduct.
11. The Tenant testified that these activities placed the Landlord directly in view of the rental unit windows and made both her and her daughter uncomfortable. As a result, the Tenant kept the blinds closed whenever the Landlord was home and at times rushed home early to allow sunlight into the unit before the Landlord returned. On one occasion, the Tenant's daughter became frightened when she saw the Landlord near her bedroom window.

12. The Tenant did not raise these concerns with the Landlord, as she felt uncomfortable doing so.
13. During the second week of the tenancy, the Tenant noticed that her garbage had been removed from the bin while the Landlord's garbage remained. When she asked the Landlord about this, he advised that he had taken the Tenant's garbage to the dump at his place of work. The Tenant found this behaviour unsettling and believed the Landlord may have been going through her garbage. She did not communicate these concerns to the Landlord.
14. The Tenant called a witness, M.K., who did not personally observe the Landlord's conduct but testified that the Tenant described feeling unsafe and uneasy. M.K. also testified that the Tenant's daughter reported being frightened when the Landlord appeared at her bedroom window.
15. The Landlord testified that he has obsessive compulsive disorder and is meticulous about maintaining his property. He denied looking into the Tenant's windows or acting with any improper intent. The Landlord also stated that the Tenant never expressed discomfort regarding his exterior maintenance activities.
16. The Landlord testified that he did remove boxes and packing materials belonging to the Tenant after she moved in. He stated this was done because the items were bulky and not suitable for regular municipal pickup. The Landlord denied searching through the Tenant's garbage.
17. The Landlord called a neighbour, J.W., who testified that the Landlord performs yard work daily, often early in the morning and after work, and takes pride in the upkeep of his property.

Analysis

18. Section 22 requires both a subjective and an objective assessment. While the Tenant may have experienced discomfort, the interference must be substantial and one that a reasonable person would consider unreasonable in the circumstances.
19. I accept that the Tenant felt uncomfortable as a result of the Landlord's cleaning and maintenance activities. However, the Tenant did not inform the Landlord that his conduct caused her distress and therefore did not give the Landlord an opportunity to address or modify his behaviour. In the absence of such communication, I do not find that a reasonable person would conclude that the Landlord's conduct amounted to substantial interference.
20. While the Tenant's feelings are not dismissed, tenants have an obligation to communicate concerns to their landlord. Had the Tenant done so and the conduct continued without reasonable accommodation, her claim may have been different. In this case, particularly given that the Landlord's maintenance practices pre-dated the tenancy and were connected to his stated mental health condition, I find that the Tenant has not met her

burden to establish, on a balance of probabilities, that the Landlord substantially interfered with her reasonable enjoyment.

21. The Tenant has not established, on a balance of probabilities, that the Landlord searched through her garbage. The Tenant provided no evidence in support of this allegation, and I find that it was based on speculation. Accordingly, I do not find that this allegation amounts to substantial interference with the Tenant's reasonable enjoyment.

Illegal Entries

22. The Tenant testified that in the early morning hours of July 31, 2023, the Landlord entered the rental unit without notice while she was away and examined her belongings.
23. The Tenant stated that she was visiting her mother in another city on July 30, 2023. At approximately 12:10 a.m. on July 31, 2023, she received a motion notification from a security camera located in her unit and observed live video footage showing the Landlord inside the unit.
24. The Tenant submitted video recordings captured by her security camera. In the first video, the Landlord is seen entering the unit, turning on a light, and walking down a hallway that is out of view of the camera. The Tenant testified that this hallway leads to the bedrooms. A second video, captured shortly thereafter, shows the Landlord returning from the hallway into the kitchen area. The Landlord appears to bend down and open a cupboard or drawer, although the view is partially obstructed by the kitchen counter.
25. The Tenant submitted that the time stamps from the motion-activated recordings indicate the initial entry occurred at 12:10 a.m. She maintained that the camera stopped recording when the Landlord moved out of range and resumed when he returned into view, and that the time stamps demonstrate the Landlord remained in the unit for approximately one hour and twenty-two minutes.
26. The Tenant testified that she immediately texted the Landlord asking why he was inside her unit. The text exchange was filed as evidence. In response, the Landlord wrote:
- “Hi Marcia, I just came home and the air conditioner running so loud, I went to check, if it's a problem let me know.”
27. The Tenant testified that the unit was cooled by a central air conditioning system serving the entire house, located outside the rental unit, and that she had no control over the system from within her unit.
28. The Tenant stated that, in light of her prior concerns regarding the Landlord's conduct, including cleaning around the windows and removing her garbage, this entry caused her to believe it was no longer safe for her and her daughter to remain in the unit. She stayed at her mother's home after July 31, 2023, and returned to the rental unit only once thereafter with police.

29. The Tenant testified that when she returned to the unit with police on August 3, 2023, she observed signs suggesting the Landlord had been inside the unit again. She stated that cupboards on her television stand, which had been closed, were open, and that decorative items previously stored inside a cupboard had been removed and placed on the floor. The Tenant testified that she filed a police report but was advised that the matter was more appropriately addressed by the Landlord and Tenant Board.
30. The Tenant stated that she did not have video evidence of any further entries because she believed the Landlord disabled the internet connection, preventing her security camera from functioning.
31. The Tenant called a witness, M.K., who testified that she attended the unit with the Tenant on August 3, 2023. M.K. stated that she observed a bin in the Tenant's bedroom with the tape removed, which the Tenant told her had previously been sealed.
32. The Landlord testified that on July 31, 2023, he arrived home shortly after midnight and noticed that the central air conditioning was running loudly. He stated that although his thermostat was set to 22 degrees, the home felt unusually cold. The Landlord testified that he knew the Tenant was away and, due to the late hour, did not contact her before entering the rental unit.
33. The Landlord testified that he believed there was an issue with the HVAC system and entered the rental unit on an emergent basis to shut off and reset the breaker. He stated that this resolved the issue and that the air conditioning functioned normally afterward. The Landlord testified that he was in the unit for no more than a few minutes and denied remaining there for an extended period. He stated that he opened a cupboard solely to inspect the ductwork.
34. The Landlord testified that he did not enter the rental unit again until after the Tenant had vacated. He stated that the Tenant did not return the unit key and that he entered the unit using a spare key on September 1, 2023.
35. The Landlord denied disabling the internet connection or preventing the Tenant's security system from functioning.

Analysis

36. The Tenant's allegation regarding illegal entry engages sections 25, 26, and 27 of the Residential Tenancies Act, 2006 (the "Act"). With limited exceptions, a landlord may only enter a rental unit with proper notice. One such exception is where there is an emergency, in which case no notice is required.
37. The Tenant's primary allegation is that the Landlord entered the rental unit on July 31, 2023, without consent or notice and remained inside for approximately one hour and twenty-two minutes. I carefully reviewed the video evidence submitted by the Tenant, including the time stamps on the recordings. The time stamps displayed at the bottom of the two videos are as follows:

- G8T1-9000-1264-0708_2023-07-30T00_10_57-0400 (this video was 30 seconds in length.
- G8T1-9000-1264-0708_2023-07-30T00_12_18-0400 (this video was 30 seconds in length

38. The highlighted portion of the video information shows the recording date followed by the time, as indicated by "T." The first recording therefore begins at 12:10:57 a.m. and the second at 12:12:18 a.m. Based on this evidence, I find that the Landlord was in the rental unit for approximately two minutes and not for the duration alleged by the Tenant. This evidence supports the Landlord's testimony that his entry was brief.
39. The evidence establishes, on a balance of probabilities, that the Landlord entered the unit shortly after midnight after observing that the central air conditioning system was running unusually loudly and that the home was excessively cold. I accept the Landlord's testimony that an air conditioning system that fails to shut off, particularly when exceeding the set temperature, may pose a risk of serious damage to the HVAC and furnace system. I am satisfied that the Landlord reasonably believed an emergency existed and that prompt entry was required to prevent potential damage to essential building systems.
40. In these circumstances, I find that the Landlord's entry on July 31, 2023, falls within the emergency exception under the Act and was therefore lawful.
41. The Tenant also alleged that the Landlord entered the rental unit on one or more subsequent occasions, relying on open cupboards, moved items, and a tampered bin as evidence. However, the Tenant did not provide direct evidence of any additional entry. There is no video footage, witness testimony, or other objective evidence establishing that the Landlord entered the unit again prior to the end of the tenancy. I am not satisfied that the Landlord was responsible for moving the Tenant's belongings
42. I find that these allegations are based on suspicion rather than proof. While the Tenant may genuinely believe that the Landlord re-entered the unit, belief alone is insufficient to establish a violation of the Act. On a balance of probabilities, I am not satisfied that any additional unauthorized entries occurred.
43. For these reasons, I find that the Tenant has not met her onus to establish that the Landlord unlawfully entered the rental unit. Accordingly, this portion of the Tenant's application is also dismissed.
44. 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.
45. 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 Tenant's application is dismissed.

May 01, 2025
Date Issued

Melissa Anjema
Member, Landlord and Tenant Board

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