



Order under the Residential Tenancies Act, 2006

File Number: LTB-T-099234-24/LTB-L-099529-24

In the matter of: 5 CARAVAN DR
NORTH YORK ON M3B1M9

Between: Pei Hua Lin Tenant

And

Sam Moshaver Landlord
Sahar Eini

Pei Hua Lin (the 'Tenant') applied for an order determining that Sam Moshaver and Sahar Eini (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 (T2 Application).

The Landlord applied for an order determining the Tenant owes rent (L9 Application).

This application was heard by videoconference on December 16, 2025 and April 20, 2026.

The Landlord Sam Moshaver, Landlord's legal representative Sara Ginman, the Tenant, and the Tenant's legal representative Wendy Hu attended the hearing.

Agreed Facts:

1. The Tenant vacated the rental unit on December 31, 2024. The monthly rent at the time the Tenant vacated was \$5,400.00.
2. The Landlord holds a last month's rent deposit of \$5,400.00 collected February 14, 2024. No interest has been paid on the last month's rent deposit.
3. The lease began on April 1, 2024 for a one year term ending March 31, 2025.

Determinations:

4. The Tenant seeks an order for rent abatement due to alleged substantial interference during repairs between November 12 – 24, 2024, as well as a determination that the tenancy terminated on December 31, 2024.
5. The Landlord seeks a dismissal of the T2 Application as well as an order that the Tenant owes rent to March 31, 2025.

Testimony of Pei Hua Lin

6. The Tenant testified that the lease commenced on April 1, 2024, although she did not move into the rental unit until June 16, 2024. Upon moving in, the Tenant observed cracks in the basement ceiling. She took photographs of the cracks and sent them to the Landlord via WhatsApp. These messages and photographs were entered into evidence. At the time the Tenant sent the Landlord the messages, the Landlord did not respond.
7. By August 2024 the cracks had grown larger. On August 29, 2024, the Landlord's wife attended at the rental unit and observed the cracks in person. WhatsApp messages about this visit were entered into evidence.
8. The Tenant stated that she attempted to repair the crack herself and again informed the Landlord by sending photographs, but she received no response. Over time, the cracks continued got worse, and new cracks appeared outside the laundry room area in the basement.
9. On October 21, 2024, the Landlord advised the Tenant that someone would be attending to inspect the rental unit. On October 24, 2024, a portion of the cracked ceiling began falling down. The Tenant sent photographs of the fallen ceiling to the Landlord, which were entered into evidence.
10. On October 29, 2024, the Landlord advised by text message that someone would attend to complete repairs, and instructed the Tenant to avoid the affected area while continuing to use the rest of the house. The Tenant was unsure how long the repairs would take to complete.
11. Work was initially scheduled to begin on November 10, 2024, and the Tenant moved her belongings away from the affected area in preparation. However, contractors did not attend until November 12, 2024. Approximately five days after the work began, the Tenant was advised that the problem originated from the main bathroom. As work was being conducted on the bathroom, the Tenant was unable to use the bathroom connected to the main bedroom and had to cover her belongings with plastic. Bathroom work occurred from November 19 to November 24, 2024.
12. The Tenant testified that she experienced significant disruption during repairs. She remained at home for approximately two weeks to monitor the work, ensure no damage occurred, and prevent theft. She described ongoing dust throughout the house. The construction noise was loud, which interfered with her ability to work from home.
13. The Tenant testified that she has a nine-year-old daughter and had to keep her nearby in another room to supervise her during the construction. The Tenant slept in a different room during the bathroom work period and was unable to use the affected bathroom for five days. She used a secondary bathroom located in the rental unit. The Tenant testified that there was dust everywhere and that she could not sleep in the bedroom adjacent to the work area. She seeks a rent abatement of 25% for the period from November 12 to November 24, 2024 as well as an order that the tenancy terminated December 31, 2024.

14. During cross-examination, the Tenant acknowledged that she had tenant insurance but chose not to make a claim, explaining that she did not wish to involve her insurer. She agreed that she could use most of the house aside from the basement and the upstairs bathroom but testified that she felt obligated to supervise the construction. She confirmed that the bathroom repairs were completed before the basement repairs and acknowledged that the laundry room was a shared space and not part of her exclusive rental unit.

Testimony of Sam Moshaver

15. The Landlord testified that he was served an N9 notice on December 1, 2024, seeking to terminate the tenancy effective December 31, 2024, despite the fixed-term lease running from April 1, 2024, to March 31, 2025. The lease was entered into evidence.
16. The Landlord testified that he did not accept the N9 notice. The Landlord's representative sent the Tenant a letter dated December 3, 2024, advising that the Landlord did not agree with an early termination and suggesting that the Tenant could pursue a claim through her insurance. This letter was entered into evidence. The Landlord received the keys to the unit from the Tenant on December 31, 2024.
17. The Landlord testified that he first became aware of the ceiling issue on August 28, 2024. He stated that the crack did not appear wet or show signs of water damage and he considered it simply normal settling of a 56-year-old house. He testified that the Tenant had access to the above-ground portions of the house.
18. In October 2024 the Tenant advised that a piece of ceiling had fallen. Upon inspection by the Landlord's contractor, it was determined that the entire ceiling would need to be removed. The Landlord indicated that he wanted repairs to begin on November 2, 2024, but stated that the Tenant would not allow the work to start at that time. He testified that he waited until the Tenant advised she was ready, and repairs ultimately began on November 12, 2024. He stated that the repairs were expected to take four to five days and that the Tenant agreed to this proposed timeline.
19. Repairs were completed on November 23, 2024, with bathroom repairs taking two days. He stated that the cause of the damage was a leaking shower drain on the second level, which was not known until the ceiling was opened. He testified that his contractor advised that replacing the ceiling would be sufficient to address the issue and that this information was shared with the Tenant. The Landlord acknowledged that he did not offer alternative accommodations when the Tenant complained, but testified that he did offer use of another bedroom and bathroom in the house. He stated that tarps were used to control dust and that he was not aware whether the Tenant made an insurance claim.
20. During cross-examination, the Landlord acknowledged that he did not conduct a pre-move-in inspection and did not take action when the crack was initially reported on June 16, 2024. He confirmed that his wife attended the unit with the Tenant in August 2024 and that a contractor was sent in late October after further reports. He testified that as of October 24, 2024, he did not know the damage was caused by water. He acknowledged that no formal written notice of entry or repair was provided, explaining that the parties remained in verbal contact and the duration of the repairs was uncertain.

21. Furthermore, the Landlord confirmed that there were two separate areas of ceiling damage.

Mitigation

22. The Landlord testified that once he received the key on December 31, 2024 he began to attempt re-renting the rental unit. The Landlord began by inspecting the rental unit to ensure it was in adequate condition to list on MLS. On January 8, 2025 he listed the rental unit on MLS for the same monthly rent of \$5,400.00. He subsequently lowered the asking rent to \$4,400.00 in the hopes of getting a tenant into the rental unit. On August 10, 2025, the rental unit was re-rented for \$4,500.00 monthly.
23. In cross-examination, the Landlord was asked why he did not immediately relist the unit after receiving the Tenant's N9notice. The Landlord testified that he did not agree with the early termination and was unsure whether the Tenant would actually vacate until she returned the keys. Once he received the keys, he moved immediately to re-rent.

Analysis

24. Section 22 of the Residential Tenancies Act (the Act) states:

22 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

25. Section 8 of O.Reg 516/06 states:

- 8.** (1) In this section,
"work" means maintenance, repairs or capital improvements carried out in a rental unit or a residential complex.
- (2) For the purposes of section 22, paragraph 3 of subsection 29 (1) and subsection 31 (1) of the Act, this section applies to the Board in making a determination,
- (a) as to whether a landlord, superintendent or agent of a landlord, in carrying out work in a rental unit or residential complex, substantially interfered with the reasonable enjoyment of the unit or complex for all usual purposes by a tenant or former tenant, or by a member of the household of a tenant or former tenant; and
- (b) whether an abatement of rent is justified in the circumstances.
- (3) In making a determination described in subsection (2),
- (a) the Board shall consider the effect of the carrying out of the work on the use of the rental unit or residential complex by the tenant or former tenant, and by members of the household of the tenant or former tenant; and
- (b) the Board shall not determine that an interference was substantial unless the carrying out of the work constituted an interference that was unreasonable in the circumstances with the use and enjoyment of the rental unit or residential complex by the tenant or former tenant, or by a member of the household of the tenant or former tenant.

26. The Tenant is seeking a rent abatement for the period of time in which the repairs took place. The crux of the interference described by the Tenant was not being able to use the bathroom during repairs, excessive noise, dust, and the inability to leave the rental unit to ensure the rental unit remained safe.
27. In *Onyskiw v. CJM Property Management*, [2016 ONCA 477](#) (CanLII), the Court of Appeal for Ontario determined that a contextual approach should be adopted when considering a landlord's potential breach of the Act and a breach will not be found if the landlord's response to a maintenance issue was reasonable in the circumstances.
28. On a balance of probabilities, I do not find that the actions of the Landlord, when conducting the repairs between November 12 – 24, 2024, caused substantial interference to the Tenant that was unreasonable in the circumstances. While it is understandable that the Tenant was unhappy with the work being done in the rental unit for the two-week period, I do not find that the evidence proves the actions of the Landlord were unreasonable. The Landlord conducted necessary repairs and there was no evidence that the repairs were done improperly or unreasonably. The Tenant does not seek remedy for the Landlord's prior inaction/delay in repairing the rental unit and the Tenant did not seek to terminate the tenancy due to said prior inaction/delay.
29. Furthermore, the evidence before the Board is that the Landlord offered the Tenant additional living areas to accommodate for any disruption due to the repairs. The Tenant did not prove the allegations contained in the application on a balance of probabilities.
30. As the Tenant did not prove that there was substantial interference, I do not find that the Tenant properly terminated the tenancy by giving notice pursuant to the Act. There is no evidence that the rental unit was uninhabitable or that the contract between the parties was frustrated. As a result, there is no reason for the Board to conclude that the tenancy should terminate early. Additionally, the Tenant served notice on December 1, 2024, after the repairs had already completed. It was unclear in submissions as to why it would be reasonable to make a determination that the tenancy should be terminated when the Tenant provided short notice to terminate the tenancy *after* the repairs were done.
31. The parties agree that there was a fixed term beginning April 1, 2024 and ending on March 31, 2025.
32. Section 47 of the Act states:
- 47** A tenant may terminate a tenancy at the end of a period of the tenancy or at the end of the term of a tenancy for a fixed term by giving notice of termination to the landlord in accordance with section 44.
33. The Tenant did not provide proper notice to terminate the tenancy at the end of the fixed term, therefore the Tenant's notice was defective and not in accordance with the Act.
34. Section 88 of the Act states:
- 88** (1) If 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, a determination of the amount of arrears of rent owing by the tenant shall be made in accordance with the following rules:

1. If the tenant vacated the rental unit after giving notice that was not in accordance with this Act, arrears of rent are owing for the period that ends on the earliest termination date that could have been specified in the notice, had the notice been given in accordance with section 47, 96 or 145, as the case may be.
35. Pursuant to section 88 of the Act, arrears of rent are owing up to the earliest possible termination date that could have been specified in the notice, namely March 31, 2025.
36. Despite this, the Landlord is required to minimize damages pursuant to section 16 of the Act. I find, on a balance of probabilities, that the Landlord minimized their damages by attempting to re-rent the rental unit as soon as possible. As the Landlord informed the Tenant on December 3, 2024 that they are not accepting the N9 notice, it was reasonable for the Landlord to wait until the Tenant returned the keys to the rental unit before listing the rental unit on MLS. I am satisfied that the Landlord took reasonable efforts to re-rent the rental unit and therefore they have fulfilled the requirement set out in section 16 of the Act.
37. I find that the Tenant owes rent to the Landlord up to March 31, 2025 in the amount of \$21,600.00. The Landlord incurred a filing fee of \$186.00, which shall also be owing by the Tenant.
38. The last month's rent deposit of \$5,400.00 as well as interest on the deposit amounting to \$128.72 shall be credited to the amount owing by the Tenant to the Landlord.

It is ordered that:

1. The T2 Application is dismissed.
2. The Tenant shall pay to the Landlord the amount of \$16,257.28, which are arrears to March 31, 2025, plus the application filing fee, minus the last month's rent deposit and interest on the deposit.
3. If the Tenant does not pay the Landlord the full amount owing on or before May 9, 2026, the Tenant will start to owe interest. This will be simple interest calculated from May 10, 2026 at 4.00% annually on the balance outstanding.

April 28, 2026
Date Issued

Brett Lockwood
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.