



Order under Sections 57 and 89 Residential Tenancies Act, 2006

Citation: Annan v Quanduk, 2026 ONLTB 33637

Date: 2026-05-05

File Number: LTB-T-019292-23

LTB-L-021674-23

In the matter of: 16 PATIENCE LANE
Ajax ON L1S3E1

Between: Douglas Cameron Annan Landlord

And

Cory Quanduk Former Tenant
Jannah Deshevy

Douglas Cameron Annan and Supreme Legal Services (the 'Landlord') applied for an order requiring Cory Quanduk and Jannah Deshevy (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.

Cory Quanduk and Jannah Deshevy (the 'Tenant') applied for an order determining that Douglas Annan (the 'Landlord') gave a notice of termination in bad faith.

These applications were heard by videoconference on February 18, 2026, and March 10, 2026.

The Landlord's Representative, Victoria Zarif, the Tenant's Representative, Shaun Harvey, the Landlord and the first-named Tenant attended the hearings. The Landlord's witness, Cairo Hollingsworth, participated in the hearing on March 10, 2026.

Determinations:

History and Context

1. The rental unit is a multi-bedroom townhouse or semidetached home within a building complex.
2. The tenancy began April 1, 2017.

3. The Landlord served an N12 to the Tenants in 2021 stating that he required the rental unit for his own residential use, pursuant to section 48(1) of the *Residential Tenancies Act*, 2006 (the 'Act'). An L2 application was heard pursuant to this N12 on February 17, 2022 (TEL-18200-21). The order resolving this matter was issued on March 2, 2022. The Board determined that the Landlord had served the Tenant in good faith and granted the Landlord's application to terminate the tenancy on March 31, 2022. No evidence was presented to me that this matter was reviewed or appealed to the Divisional Court.
4. The Landlord and Tenant had a subsequent application before the Board. The Landlord had filed an L1 application for unpaid rent (TEL-19063-21), while the Tenant had filed a T2 application against the Landlord (TET-14853-21). The matter was heard on March 29, 2022, or 2 days before the tenancy was to be terminated pursuant to TEL-18200-21.
5. At that hearing, the parties consented to an order that confirmed that the Tenant would vacate the rental unit on or before March 31, 2022, that the Small Claims Court lawsuit would be withdrawn, and that all rent arrears would be waived. The final paragraph of the preamble of this order states the following:

The parties mutually agreed to resolve all matters at issue in the applications and requested an order on consent. I was satisfied that the parties understood the consequences of the joint submission. This Order resolves all issues with respect to the tenancy up to the date of the hearing.

6. It was not contested that the Tenant vacated the rental unit by March 31, 2022.

T5 Preliminary Issue- Did the Tenant Vacate pursuant to the N12 or to the N4

7. At the hearing, the Landlord stated that the Tenant had consented to vacate the rental unit on March 31, 2022, based on the TEL-19063-21_ TET-14853-21 order issued on March 31, 2022, and not order TEL-18200-21, which was the order granting the Landlord's application to terminate the tenancy based on the N12.
8. The Tenant responded that the tenancy was already set to terminate pursuant to TEL-18200-21. The decision to vacate the unit was based on the N12 notice and not the N4 notice.
9. The Tenant had testified that after the issuance of TEL-18200-21, they had found a new place to reside as of March 15, 2022. This was not challenged at the hearing.
10. Based on the timeline of events, I find that on a balance of probabilities, the consent agreement made on March 29, 2022, terminating the tenancy was treated more as insurance to confirm that the Tenant would vacate the rental unit as of March 31, 2022.
11. The order which necessitated the move was the L2 based on the N12 notice, which was issued to the parties March 2, 2022.
12. For this reason, I am satisfied that the tenancy terminated because of the service of an N12 notice.

L10 Preliminary Issue- Did the parties agree that the consent order resolved all issues up to the hearing?

13. The Tenant brought forward order TEL-19063-21_ TET-14853-21 and drew attention to the preamble of the order which stated:

This Order resolves all issues with respect to the tenancy up to the date of the hearing.

14. The Tenant stated that since this agreement was reached on March 29, 2022, any issues that arose prior to March 29, 2022, could not be considered in this hearing because they were covered by the consent agreement.
15. At the hearing, the Landlord pointed out that since the clause was in the preamble and not in the order, the clause did not have the same effect. Furthermore, the Landlord relied on the finding of the previous member who issued an interim order, but did not seize themselves of this matter, and referenced the resulting order: LTB-L-021674-23-IN, issued September 23, 2025. This order agreed with the Landlord's stance that the agreement is only about the application before the Board at the time, which was rent arrears and the Tenant's T2 application.
16. An application may be barred by issue estoppel if three conditions are met: (1) the same issue has been decided in a prior proceeding; (2) the prior decision was final; and (3) the parties to the prior and subsequent proceedings are the same (*Bryton Capital Corp. GP Ltd. v. CIM Bayview Creek Inc.*, [2023 ONCA 363](#) at para. [43](#)).
17. Conditions 1 and 3 have been met. Condition 2, which requires that the prior decision be final, has not been met because the determination was stated on an interim order by an adjudicator who did not seize themselves of the matter. The Member made a determination that they would deny the request to dismiss the application, however, then adjourned the matter to another date to go before a different member (myself), who is not bound by any other decisions.
18. If I were to consider that condition 2 had been met, and that this was a final determination within the yet to be resolved application, I would also point out that the Board does have the jurisdiction to waive the doctrine of issue estoppel in appropriate circumstances. I disagree that I should have my own judgment affected by another Member's judgment on the same application, especially when they were not privy to the full context of all the applications or facts within.
19. I am the hearing member rendering the final decision on an order and it is within my discretion to reconsider any previous decisions made regarding this application.
20. For this reason, the issue of the final resolution clause in TEL-19063-21_ TET-14853-21 is to be considered in this order.
21. I am not satisfied that the placement of the clause, or the fact that it is in the preamble rather than the "It is ordered" section diminishes its effect on the order. The whole of an order is to be considered, as all parts of the order give context to terms and conditions issued in an order.

22. No evidence was presented that the Board Member who issued order TEL-19063-21_ TET-14853-21 made an error, and no submissions were presented that either party attempted to have the order reviewed with the LTB or appealed the decision to Divisional Court based on the existence of the clause.
23. The first line in the paragraph in question, "*The parties mutually agreed to resolve all matters at issue in the applications and requested an order on consent.*" reflects exactly what the Landlord has stated: the order only considers the terms of the application, not the tenancy as a whole. Had the paragraph ended there, I would agree with the Landlord's assertion that the full and final clause only addresses the applications before the Adjudicator at that time. However, the rest of the paragraph changes this. "*I was satisfied that the parties understood the consequences of the joint submission. **This Order resolves all issues with respect to the tenancy up to the date of the hearing.***" This sentence means that "all issues with respect to the tenancy" which encompasses every issue up to the date of the hearing. More importantly, "*I was satisfied that the parties understood the consequences of the joint submission.*" shows that the Member made a finding that both parties understood the ramifications of what the parties were agreeing to on consent. To reiterate, this order was not challenged on review or appealed to Divisional Court.
24. The Landlord entered into this agreement without having been in the rental unit for months.
25. In agreeing to resolve all issues up to the hearing date regarding the order, the parties entered into a contract to waive all responsibility to each other up to and including March 29, 2022, and in exchange, the Tenant confirmed they would vacate the rental unit by March 31, 2022.
26. In any contract, the doctrine of "*caveat emptor*", or "let the buyer beware" applies. The parties entering a contract are expected to have done their due diligence to make themselves knowledgeable of all circumstances. By not doing so, they waive their right to remedy for any issues that arise from any patent defects.
27. In addressing the relevance of the audio recordings, the other Member referenced that were made at the hearing for TEL-19063-21_ TET-14853-21, those recordings are not relevant. Pursuant to section 209(1) of the Act, an order from the Board is final and binding. The terms of the order are what are relevant, and the parties, if they disagreed with these terms had the opportunity to review or appeal the decision.
28. Had the Landlord been diligent and had either himself, or an agent on his behalf enter the rental unit to inspect it before March 29, 2022, then the Landlord may have saw the state of the rental unit. Most of the damages to the rental unit that were brought forward in the Landlord's L10 application would have been obvious to the observer. The only issue that might not have been obvious was the water damage caused by the leaking tub, however the Landlord testified to having been aware of this issue, as he had someone apply a silicone caulking plug to the leaking tub that caused the water damage.
29. The only issues brought forward by the Landlord's L10 application that could feasibly be issues that arose after March 29, 2022, would be the following:

- a) Allegation that the Tenant fastened the garage door to the structure in a way to render the garage door immovable, and cause damage to the garage door opener motor; and
 - b) Backyard wooden gate damage and replacement.
30. Every other issue, from the damage to the walls, flooring, and doors throughout the rental unit, to the state of the appliances, and the state of the patio stones in the backyard, are, on a balance of probabilities, damages that would have occurred over a period of time for at least months prior to the agreement reached on March 29, 2022. These are damages that, had the Landlord acted in a diligent manner before reaching an agreement with the Tenant, would have viewed these patent defects, and may have reconsidered entering into such an agreement.
31. Therefore, the only issues I will consider on the L10 application are the garage door damage and the gate damage, as these are issues that are more than likely to have occurred after March 29, 2022, since they involve exit points to the rental unit that would have been required to be functional during the Tenant's vacating of the premises.
32. The remainder of the Landlord's L10 application is denied by virtue of order TEL-19063-21_ TET-14853-21, issued March 31, 2022, stating that "*This Order resolves all issues with respect to the tenancy up to the date of the hearing*" (March 29, 2022).

L10 Merits

33. It was uncontested that the Tenant had vacated the rental unit on March 31, 2022.
34. The Landlord testified that he had attempted to enter the rental unit on April 1, 2022. The Landlord, when he attempted to retrieve the house keys from the garage, discovered that the fence to the backyard had been locked by a padlock. As a result, the Landlord was required to break down the gate to gain entry to the property. The Landlord testified that no keys had been left for the Landlord to unlock the padlock to the backyard access. The entry rendered the door unusable after entry was forced. Photos were presented to corroborate the Landlord's testimony. (DOC-7328811, pg 24-25)
35. The Landlord provided receipts for the wood, gate latch and other hardware required for the Landlord to repair the damage himself. This total amount spent was \$144.52. (DOC-7328811, pg 72-73)
36. The Landlord also claimed that the Tenant "sabotaged" the function of the garage door by fastening screws and 2x4 boards into the garage door to prevent it from being opened. The Landlord, when he used the automatic garage door opener to open the garage found that the garage door would not open due to the fastened boards, and as a result, burned out the circuitry to the garage door opener.
37. The Landlord provided photos of what appears to be lumber wedged and fastened into the upper wall and the upper frame of the garage door. (DOC-7328811, pg 26)
38. The Landlord presented receipts for the replacement cost of the garage door opener and its installation. The sum of the amounts on the invoice totalled \$421.18 (DOC-7328811, pg. 71).

39. The Tenant testified that when he vacated the rental unit, he used the garage door to remove his property from the rental unit without any issue. The Tenant denied having used the boards to prevent the garage door from opening.
40. It was uncontested that the remote garage door opener, and the keys to the rental unit were left in the garage.

Analysis

41. The photos addressing the gate showed an unlocked padlock on a gate door. A picture of a new gate was submitted.
42. The pictures did not show a damaged gate, but a damaged striking plate/board, which would have been fixed with that one board being replaced. The gate door itself appears to have been repaired with a small 2x4, but other than that, the door did not appear to be damaged.
43. Based on the evidence presented, I am not satisfied that the door was required to be replaced. The claim before me is for the replacement of the gate, not repair to the fence. Although there may have been repairs to the striking plate/board of the fence, there was no evidence of that presented to me. For this reason, I am not satisfied that the gate was damaged and required replacement. Therefore, this claim is denied.
44. The more serious issue is whether the Tenant had intentionally damaged the garage door before vacating the rental unit. The claim alleges that the Tenant sabotaged the garage door which suggests an intent or willful damage to the rental unit.
45. The Landlord testified that when he engaged the garage door opener, the boards wedged in the door and screws in the door prevented its opening and caused the garage door motor to strain and burn out the circuit board in the garage door motor.
46. Having a garage door opener myself, I am not unfamiliar with their operation. If they encounter any resistance, they are designed to automatically reverse or stop. This is a mandatory safety feature that manufacturers have had to build into garage door openers since January 1, 1993, via the National Standard of Canada, a bilateral standard binding in both the USA and Canada. The fact that a major chain, such as Home Depot, would sell a product suggests that, on a balance of probabilities, any garage door opener they sell meets this code.
47. Both parties had agreed that the garage door opener was installed just prior to the Tenant taking possession of the rental unit, and, during the tenancy, the circuit board had been replaced. In cross-examination, the Landlord was asked why he did not stop the garage door opener from moving when he heard the garage door opener motor strain and eventually burn out, but the Landlord did not have a response to this.
48. I also note the lack of any evidence showing the broken garage door opener. No picture of a broken drive chain/belt, or damaged circuit board was presented. There was no evidence presented that showed that the garage door opener was inspected by a professional to corroborate the garage door damage.

49. A receipt for a garage door opener only proves that one was purchased. It does not prove that one was installed at the rental unit.
50. Although photos of the boards were provided showing that they may have been placed in a manner as to prevent the garage door opening, no photos showing any stress against the wood were provided. Garage door openers are made to lift around a heavy garage door. If the safety features of the automatic garage door opener had not engaged, then I would believe that the wood hindering the garage door movements would have shown damage. At least the two boards that I saw with 45 degree angles would have had the tips compressed.
51. The issue before me is costs incurred by the Landlord because of damage to the rental unit.
52. The evidence is not sufficient to prove to me, on a balance of probabilities that the garage door opener was damaged.
53. As stated earlier in this order, I am satisfied that the Tenant left the rental unit in rough shape and substantial repairs would have been required. However, these are issues that the Landlord waived any claim to when he agreed to the order on March 29, 2022.
54. On the remaining two issues that I could address because, on a balance of probabilities, they more likely could have happened after March 29, 2022, I do not find that the evidence was sufficient to prove on a balance of probabilities, that the Tenant sabotaged the operation of the garage door, or that the Tenant caused damage to the backyard gate.
55. For these reasons, the Landlord's application is dismissed.

T5- Merits

56. The Tenant alleges that the Landlord gave a notice of termination under section 48 of the Act in bad faith.
57. For an application such as this to succeed, the Tenant needs to prove the following:
 - a) The Tenant was served an N12 notice.
 - b) The Tenant vacated the rental unit as a result of the N12 notice (regardless of if it was enforced via an order from the Board or voluntary);
 - c) The person intended to move in did not occupy the rental unit within a reasonable amount of time.
 - d) The notice was given in bad faith, which is triggered by the following:
 - i. Unit is advertised for rent
 - ii. A landlord enters into another tenancy with another tenant
 - iii. The rental unit is advertised for rent or sale
 - iv. The rental unit is demolished
 - v. The rental unit is converted for a purpose other than residential premises.
58. The Tenant's application alleges that the Landlord never moved into the rental unit.
59. The Tenant testified that the rental unit remained vacant for months. The Tenant based this claim on having looked into the rental unit from a sidewalk on June 27, 2022, and June

30, 2022. The Tenant testified that when he looked into the front windows, it appeared that the rental unit was still vacant.

60. The Tenant also testified that other people in the residential complex had not witnessed anyone move into the rental unit after the Tenant vacated. It is noted that none of these people were called as witnesses to testify at this hearing.
61. The Tenant also testified that the Landlord's truck was still parked at the Landlord's ex-spouse's house which would suggest that the relationship had not ended as had been reported by the Landlord. No corroborating evidence was presented to support this claim, and I would note that even if it were, the strength of that evidence would not be very persuasive.
62. It is also noted that while the Tenant's application alleges that the Landlord never took possession, the Tenant's position changed throughout the hearing to the Landlord not taking possession of the rental unit within a reasonable amount of time.
63. The Landlord presented a substantial amount of evidence showing that he did move into the rental unit. Although a lot of this evidence presented was more in support of the Landlord's own L10 application, it is noted that there was a substantial number of repairs required to be completed before his residency could take place. Furthermore, the Landlord's employment takes him outside of the country for weeks at a time. This would lead to possibly another delay that would not be considered unreasonable.
64. The Landlord provided evidence that all his utilities were switched to his name in April 2022, and in May 2022, had switched the address of his identification to the rental unit.
65. The Landlord stated that he moved into the rental unit mid-June 2022. The Landlord also testified that the rental unit did eventually get sold, but on October 22, 2025, or over 3 years since the Tenant vacated the rental unit.
66. Possession of the rental unit was corroborated by the Landlord's witness, Cairo Hollingsworth (CH). CH also testified to the substantial amount of renovation that was required due to the state the rental unit was left in after the Tenant vacated.

Analysis

67. Based on the evidence before me, I am satisfied that the Landlord took possession of the rental unit in mid-June 2022. This is approximately a 2 ½ month delay from when the Tenant vacated and the Landlord took possession of the rental unit for his own residential use.
68. The rental unit, based on the photographs and the testimony of both the Landlord and CH did require substantial repair. The Tenant did not deny, and admitted to some of the damage to the carpets, doors, and drywall as well as the existence of flood damage due to the water leak from the bathtub.
69. Based on the amount of repair required to bring the rental unit back to a level of comfort, I am not satisfied that the delay in moving into the rental unit was unreasonable.

70. The Tenant's application will therefore fail. The tenancy terminated because of the N12 notice, and the Landlord did move into the rental unit. In consideration of all the repairs required in the rental unit, a 2.5-month delay is not unreasonable.

71. Therefore, the Tenant's T5 application is dismissed.

It is ordered that:

1. The Landlord's L10 application is dismissed.
2. The Tenant's T5 application is dismissed.

May 5, 2026
Date Issued

Robert Brown
Vice Chair, 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.