



Order under Section 69 / 89 Residential Tenancies Act, 2006

Citation: Parkdale Apartment Nominee 1 Inc. v Konarzhevskia, 2026 ONLTB 29893

Date: 2026-05-11

File Number: LTB-L-071351-23

In the matter of: 707, 118 TYNDALL AVE
TORONTO ON M6K2E7

Between: Parkdale Apartment Nominee 1 Inc.

Landlord

And

Faina Konarzhevskia
Oleksandr Tsybulskiy

Tenants

Parkdale Apartment Nominee 1 Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Faina Konarzhevskia and Oleksandr Tsybulskiy (the 'Tenants') because the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has:

- substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant;
- wilfully or negligently caused damage to the premises;
- seriously impaired the safety of any person and the act or omission occurred in the residential complex;
- wilfully caused undue damage to the premises.

The Landlord also applied for an order requiring the Tenants to pay the Landlord's reasonable out-of-pocket costs the Landlord has incurred or will incur to repair or replace undue damage to property.

This application was heard by videoconference on April 9, 2026. The Landlord's Agent, P. Silverberg (PS), the Landlord's Legal Representative, E. Steiman, the Tenants' Legal Representative, D. Goolsaran, and the Tenants attended the hearing. The Landlord's witness, L. Amawan (LA), and an interpreter for the Tenants, O. Koval, also attended the hearing.

Preliminary Issues:

The Tenants requested that the Landlord's application be dismissed because the Landlord circumvented the legal process by retaining a collection agency to collect the amounts the Tenants allegedly owe. The agency contacted the Tenants on March 23, 2026. The Tenants asserted that

the Landlord's conduct was an abuse of process and that section 168 (2) of the *Residential Tenancies Act, 2006* ('the Act') states that the LTB has exclusive jurisdiction to decide all applications and matters under the Act. The Landlord opposed the request.

The Tenant's request that the LTB find that the Landlord's conduct constitutes an abuse of process lacks merit. The isolated conduct occurred after the tenancy terminated and did not take place in the residential complex or during the tenancy. Therefore, the LTB lacks jurisdiction to make such a finding.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for the claim for compensation in the application. Therefore, the Tenants will be ordered to pay \$2,348.53 to the Landlord.
2. The Tenants were in possession of the rental unit on the date the application was filed.
3. The Tenants vacated the rental unit on April 30, 2025.
4. On August 22, 2023, the Landlord gave the Tenant a Notice to End your Tenancy for Interfering with Others, Damage or Overcrowding (N5) and a Notice to End your Tenancy for Causing Serious Problems in the Rental Unit or Residential Complex (N7) with a termination dates of September 13, 2023. The Landlord indicated in the notices that on June 23, 2023, the Tenants discarded a cigarette which subsequently caused a fire in the garbage and recycling area of the residential complex.

Landlord's Evidence

5. The Landlord's witness, and employee, LA, could not remember the exact date of the fire. However, on seeing the Landlord's first video showing two people, one of whom was observed throwing his cigarette into nearby garbage, LA confirmed that the persons in the video were the Tenants, and the location was the laneway of the residential complex. This incident was time stamped *June 25, 2023 12:42:38* in the video. The recycling area is a deck-like wooden structure with metal on one side of the guardrail.
6. LA further confirmed a second video timed 13:02:12 showed smoke emanating from the recycling area. A third video, timestamped 13:02:55, showed flames emerging from the area, with one person attempting to extinguish the fire while the other moved large recycling bins out of the way. A fourth video, timestamped 13:04:24, showed residents moving the recycling bins as the fire, no longer visible in the video, emitted smoke.
7. On cross-examination, LA acknowledged he was informed about the fire by residents and that the fire was ongoing when he arrived at the scene. The fire department attended the residential complex to put out the fire, but LA was unaware if they issued a report on the origin of the fire.
8. The Landlord's Agent, PS, testified that the Landlord incurred costs of \$2,162.53 as a result of the damage caused by the fire:

- a. \$900.00, excluding HST, quoted on July 11, 2023, by BMG Building Solutions for the removal of burnt wood and replacement with new wood.
 - b. \$649.75, invoice dated June 20, 2023, by Associated Pro Cleaning for the cleaning of burnt garbage outside the residential complex.
 - c. \$495.78 for the '3 x 95g bins delivered today' as indicated in an email from Wasteco Toronto dated June 27, 2023.
9. PS who was not employed with the Landlord at the time of the incident, testified that the bills were all paid by the Landlord. Questioned on cross-examination on why there were no receipts or prove that the invoices were actually paid, PS stated that their computing system automatically registered the invoice as paid once it has been approved for payment. The Landlord did not present any documentary evidence to show their system registered a payment.

Tenants' Evidence

10. The Tenant, Oleksandr Tsybulskiy, testified that although he could not remember the details given the length of time since the incident, he was in the unit when he heard a fire alarm, went outside and saw the fire. The Tenant tried to remove one of the recycling bins out of the way but was cautioned that it was best to wait for the fire department.
11. The Tenant stated that about forty minutes prior to the fire alarm going off, he was outside smoking a cigarette. After smoking, he instinctively crushed the cigarette butt on the metal guardrail of the recycling area before disposing it in the recycling area. A review of the video confirms the Tenant crushed the cigarette butt against the metal guardrail, and it appeared to land on the floor of the wooden structure after he threw it.
12. The Tenants further stated that the residential complex does not have designated smoking zones and there are no receptacles provided for the disposal of cigarette butts. They suggested that the fire could have been caused by the sun's reflection on metal or glass that may have been discarded in the bins.
13. The Tenants argued that the cause of the fire could not be determined, and that the Landlord could not establish that the fire resulted from their negligent or wilful conduct. The Tenants relied on *TEL-32197-12*, issued on March 22, 2013, in support of their assertions. However, that case is easily distinguishable because that landlord failed to establish that the tenant caused the fire, especially as the evidence demonstrated that in the months preceding the fire, unknown trespassers were observed smoking in the garage. In contrast, the circumstances in the present case differ significantly as analysed below.

Analysis

14. Section 89 (1) (a) of the Act provides:

Application for compensation for damage

89 (1) *A landlord may apply to the Board for an order requiring a tenant or former tenant to pay reasonable costs that the landlord has incurred or will incur for the repair of or, where repairing is not reasonable, the replacement of damaged property if,*

(a) while the tenant or former tenant is or was in possession of the rental unit, the tenant or former tenant, another occupant of the rental unit or a person permitted in the residential complex by the tenant or former tenant wilfully or negligently causes or caused undue damage to the rental unit or the residential complex; ...

15. The Tenants also relied on the Divisional Court decision in *Mir-Khaef v. Reid*, 2020 ONSC 1417 in which the court stated that the LTB ‘*correctly understood negligence to involve a departure from standards by which a reasonably competent person would behave*’. However, that case is also distinguishable on the facts because that landlord sought to hold the tenant responsible for damage to the rental unit caused by a faulty faucet. In dismissing the Landlord’s application, the LTB stated that ‘*the flood could have been avoided altogether had the Landlord adequately repaired the faucet after the problem was first reported in May 2018*’.
16. In this case, there is no dispute that a fire occurred in the recycling area of the residential complex on June 25, 2023. The Tenants were observed in that area shortly before the fire ignited. The video evidence presented by the Landlord shows that one of the Tenants finished smoking a cigarette, crushed it against the metal guardrail and without looking at it to verify it was fully extinguished, threw it into the recycling area. Approximately twenty minutes later, smoke could be seen emanating from that same area.
17. The Tenants’ explanation for the fire is that it may have been caused by the sun’s reflection off any metal or glass that may have been discarded in the recycling area. However, the video evidence shows that the recycling area was shaded from direct sunlight at the time of the incident. Hence, the more plausible reason for the fire was the Tenants’ improper disposal of the cigarette. Although the Tenants argued that anything could have happened in the intervening twenty minutes after they discarded the cigarette, there is no evidence to support that assertion. In the absence of evidence to demonstrate that the Landlord ignored any other actual cause, it is reasonable to conclude that the fire was caused by the Tenants’ actions.
18. I find on a balance of probabilities that the Tenants negligently caused undue damage to the residential complex. In this circumstance, throwing a cigarette butt into a wooden structure containing a pile of combustible items is a departure from standards by which a reasonably competent person would behave.
19. The Tenants argued that the Landlord failed to demonstrate that the invoices provided as evidence have been paid. However, the Landlord is not required to prove that they have been paid although I accept the Landlord’s testimony that they were. Section 89 (1) of the Act authorizes the LTB to order a tenant to pay the reasonable costs that the landlord has incurred or will incur as a result of the tenants’ conduct. I am satisfied from the evidence that the invoices reflect the costs the Landlord was expected to incur.
20. Based on all the evidence, I find that the Landlord incurred reasonable costs in the amount of \$2,162.53 to repair the damage and replace the recycling bins. Accordingly, the Tenants will be ordered to pay \$2,162.53 to the Landlord.
21. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated as of April 30, 2025.
2. The Tenants shall pay to the Landlord \$2,162.53, which represents the reasonable costs of repairing the damage and replacing the damaged property.
3. The Tenants shall also pay to the Landlord \$186.00 for the cost of filing the application.
4. The total amount the Tenants must pay the Landlord is \$2,348.53.
5. If the Tenants do not pay the Landlord the full amount owing on or before July 31, 2026, the Tenant will start to owe interest. This will be simple interest calculated from August 1, 2026, at 4.00% annually on the balance outstanding.

May 11, 2026
Date Issued

Jitewa Edu
Member, Landlord and Tenant Board

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