



Order under Sections 69 and 89 Residential Tenancies Act, 2006

File Number: LTB-L-074976-23

In the matter of: 402, 19 River Street
Toronto ON M5A3P1

Between: Deanna Sophia Sembecos Landlord

And

Anil Ramchan Mohan Mohabir Tenant

Deanna Sophia Sembecos (the 'Landlord') applied for an order to terminate the tenancy and evict Anil Ramchan Mohan Mohabir (the 'Tenant') because the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has willfully or negligently caused damage to the premises.¹

The Landlord also applied for an order requiring the Tenant 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. The damage was caused willfully or negligently by the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex.²

This application was heard by videoconference on May 13, 2026.

The Landlord, the Landlord's Legal Representative, Gerge Brown, the Landlord's Witnesses, Colin Topping, William Witowich, and Larry Medina, the Tenant, the Tenant's Representative Jeffrey Howard, and the Tenant's Witness, Susana Correia, attended the hearing.

Determinations:

Procedural History

1. The Landlord filed their application with the Board on September 29, 2023
2. The application was first scheduled to be heard on May 14, 2024.
3. The matter was adjourned on May 14, 2024, at the Landlord's request, as it appears from the interim order LTB-L-074976-23-IN, issued on May 22, 2024.

¹ Section 69 of the *Residential Tenancies Act, 2006*.

² Section 89 of the *Residential Tenancies Act, 2006*.

4. For greater clarity, the matter was adjourned on May 14, 2024, as the Landlord's Legal Representative at the time, Kevin Lundy, indicated that the Landlord was unable to attend the proceedings as the Landlord was "out of the country," "in a remote area, with no access to internet" and their representative needed more time to prepare for the proceedings, as they had been recently retained.³

Request to Amend the Application

5. The Tenant was in possession of the rental unit on the date the application was filed.
6. The parties agreed that the Tenant moved out and returned vacant possession of the rental unit to the Landlord on September 30, 2023.
7. The Landlord therefore no longer sought an order to terminate the tenancy and evict the Tenant on the basis that the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has willfully or negligently caused damage to the premises.
8. Instead, pursuant to section 89 of the *Residential Tenancies Act, 2006* (the 'Act'), the Landlord only sought an order requiring the Tenant to pay the Landlord's reasonable out-of-pocket expenses the Landlord has incurred to repair or replace undue damage to property, which they claim was caused willfully or negligently by the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex.
9. The Landlord's request to proceed only with an order under section 89 of the Act was granted.
10. The parties agreed that the Landlord served the Tenant with a request to amend the application on May 6, 2026, as they sought to increase the amount of the reasonable out-of-pocket expenses incurred from \$18,587.28 to \$35,702.59.
11. At the hearing, the Landlord indicated that the request to amend served to the Tenant and submitted to the Board contained a clerical error. The Landlord sought to increase the quantum of the reasonable out-of-pocket expenses to \$39,505.59.
12. The Landlord recognized that they had not advised the Tenant prior to the hearing of their intent to increase the quantum to \$39,505.59.
13. The Tenant was opposed to the Landlord's requests to amend the application to \$35,705.59 or \$39,702.59. They stated that the Landlord was unduly provided an opportunity to perfect their application following the adjournment that occurred on May 14, 2024, and that such an amendment would be prejudicial to the Tenant.
14. The Landlord testified that they were unable to attend the hearing on May 14, 2024, and had requested the matter be adjourned, as they were planning to travel to Portugal. Their travel plans fell through due to the passing of a family friend on April 25, 2024, as it appears from a copy of the *Newediuk Funeral Home* Obituary and Event schedule, related to Manuel Furtado Machado (DOC-7921540, pages 92 and 93 of 251; Exhibit 1).

³ Interim order LTB-L-074976-23-IN, issued on May 22, 2024, paragraph 1.

15. The Landlord indicated that they were “in limbo” as the aforementioned family friend was expected to host them in Portugal.
16. The Landlord stated that they attended events related to the passing of their family friend on May 9, 2024, and May 10, 2024 (Exhibit 1).
17. The Landlord indicated that they never actually purchased plane tickets nor travelled abroad on or around the time of the May 14, 2024, hearing. They were in Toronto at the time of the previous hearing.
18. On the basis of the evidence and submissions before me, I find that the Landlord obtained an adjournment on May 14, 2024, under false pretences. The Landlord had submitted a *Request to Reschedule a Hearing* with the Board on April 25, 2024, which was subsequently denied.⁴ Despite being in Toronto, submissions were previously led to the Board that the Landlord could not attend as they were abroad.
19. I do not find that being in Toronto equates to the Landlord being “out of the country,” “in a remote area, with no access to internet.” It is therefore apparent that the Landlord sought an adjournment in order to perfect their litigation strategy after recently retaining new counsel.
20. Furthermore, while the damage claimed in the application pertains to allegations that would have occurred prior to September 30, 2023, the Landlord sought to amend the application on May 6, 2026, and May 13, 2026, more than nine hundred (900) days following the last date that the Tenant ceased being in possession of the rental unit.
21. In accordance with subsection 89(1.1) of the Act, an application under subsection 89(1) of the Act can be made:
 - (a) while the tenant is in possession of the rental unit; or
 - (b) no later than one year after the tenant or former tenant ceased to be in possession of the rental unit.
22. The Landlord presented no reasonable explanation as to why they would not have been able to seek to amend the application in a more reasonable timeframe⁵, especially when taking into consideration that they indicated that the estimates and receipts they intended to rely on were dated from 2023 and 2024.
23. The purpose of an amendment is not to allow a party to do indirectly what they would not be able to do directly.
24. I also note that no explanation was provided along with the requested amendments to explain the stark increase in the quantum being sought. I therefore find that it would be prejudicial to the Tenant to proceed in amending the application when they were not duly afforded an opportunity to understand the changes being made.
25. Accordingly, based on the reasons set out above, the Landlord’s requests to amend the quantum of the out-of-pocket expenses was denied. The Landlord was therefore advised

⁴ Endorsement LTB-L-074976-23, dated May 2, 2024.

⁵ Rule 15.2 of the Board’s *Rules of Procedure*.

that pursuant to the application they filed on September 29, 2023, the maximum amount they could be awarded with respect to the out-of-pocket expenses – if they were successful in their application and met their burden to establish their claims - is \$18,587.28.

Was the Application Sufficiently Detailed?

26. A preliminary issue was raised as to whether or not the application filed by the Landlord was sufficiently detailed in order to allow the Tenant to understand the case to be met.
27. On the application, the only note included by the Landlord, which was meant to explain the basis of the claim, was “see attached documents, photos and estimates etc.” There was no explicit indication as to what documents were being referred to or where any such document could be found.
28. Along with the application, the Tenant had submitted two (2) documents with the Board, the N5 Notice of Termination with a termination date of October 11, 2023 (DOC-1998315; hereafter referred to as the ‘N5 Notice’) and a document titled “Repair/Replacement Costs for Damages Caused by the Tenant” (DOC-1998321). Both of these documents continuously refer to undisclosed pictures and estimates, with no indication as to where any such document can be found.
29. The Landlord submits that the pictures and estimates can be found within their various books of documents
30. The Tenant stated that they were confused by the Landlord's claims based on the ever-changing timelines and amounts being sought.
31. The Divisional Court case *Ball v. Metro Capital Property*, [2002] O.J. No. 5931 (hereafter referred to as “*Ball v. Metro Capital*”) states that a Notice of Termination which fails to provide sufficient details is void. At paragraph 10 of the case, the Court states in part that there are several purposes for requiring the landlord to provide the reasons and details in a Notice of Termination. The tenant needs to know the specific allegations in order to (1) be in a position to know the case that must be met and (2) to decide whether to dispute the allegations made against the tenant before the Landlord and Tenant Board; or (3) to stop the conduct or activity or correct the omission within seven days and thereby void the notice.
32. While I note that *Ball v. Metro Capital* is in reference to a Notice of Termination served by a landlord to a tenant and therefore differs from the remaining portion of the application before me, I would also note that the principles of natural justice encapsulate the spirit of *Ball v. Metro Capital*, which are to afford the responding party – in this case the Tenant – the opportunity to properly understand the allegations against them, in order to know the case to be met and have the opportunity to raise a fulsome defence, if they so choose.
33. As explained during the hearing, I do not find the Landlord's application to be sufficiently detailed with respect to the claims for damages and remedies being sought. Both the N5 Notice and the application are vague and neither adequately communicates the case to be met, and while the Landlord could certainly include appendices or attachments along with

the notice or application, in order to further explain their claims,⁶ the documents submitted by the Landlord are silent as to the location of any such supplementary documents.

34. I do not find it appropriate that the responding party, in this case the Tenant, needs to turn to various books of documents exceeding three hundred and fifty (350) pages to sift through to attempt to obtain the details of the allegations, to try to piece together the claims that are being made against them.
35. As I have found that the Tenant would not be reasonably informed in order to submit a fulsome defence, I found that the Landlord's application for an order requiring the Tenant to pay the Landlord's reasonable out-of-pocket costs the Landlord has incurred to repair or replace undue damage to property, which they claim was caused willfully or negligently by the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex, could not proceed.
36. The Landlord's application was therefore dismissed.

Costs Against the Landlord

37. The interim order LTB-L-074976-23-IN, issued on May 22, 2024, advised the parties that they should be ready to make submissions with respect to costs, should the Landlord failed to provide evidence in support of their request to adjourn the hearing on May 14, 2024.
38. Rule 23.2 of the Board's *Rules of Procedure* reads as follows:

A member may exercise discretion to order a party to pay another party's:

- a. representation/preparation fees; and*
- b. other out-of-pocket expenses.*

Where the LTB orders a party to pay the representation/preparation fees incurred by another party, these fees shall not exceed \$100 per hour for the services of a paid representative to a maximum of \$700.

39. Rule 23.3 of the Board's *Rules of Procedure* reads as follows:

A party who engages in unreasonable conduct which causes undue delay or expense may be ordered to pay costs to another party.

40. Rule 23.4 of the Board's *Rules of Procedure* reads as follows:

A party or a paid representative may be ordered to pay the LTB for its costs of a proceeding. Hearing costs will not exceed \$100 per hour to a maximum of \$700.

41. The Landlord's Legal Representative submitted that costs are to be awarded against a party that acted in a way that wasted the Board's time. They indicated that the Landlord relied on

⁶ *Gatien/Brown v. Bombaci*, 2019 ONSC 2679.

the representative who would have indicated that they would be able to obtain an adjournment.

42. The Landlord's Legal Representative further stated that the Landlord were not privileged to the submissions that their prior representative had made on May 14, 2024, and that if any such costs were awarded, they ought to be levied to the previous representative, as opposed to the Landlord personally.
43. I note that the Landlord unilaterally elected to leave the proceedings prior to their representative providing their submissions with respect to costs.
44. The Tenant stated that they had to take time off of work on May 14, 2024, and while they spent around three (3) hours before the Board (between the process of signing into the videoconference and the matter being heard), they had to take the entire day off based on the nature of their employment. They therefore sought for the Board to impose costs payable to the Tenant in the amount of \$700.00.
45. With the Board's records showing that the matter was called to be heard at 10:52 am on May 14, 2024, the Landlord submits that the Tenant spent no more than two (2) hours before the Board, and that the Tenant's failure to provide any proof of loss wages should not entitle them to an amount of \$700.00.
46. While the Landlord sought to lay blame with respect to the adjournment that took place on May 14, 2024, on their former representative, the Board ought to be able to expect that representations made by a legal representative during a hearing stem from the instructions received by their client – in this case, the Landlord.
47. The Board is not an appropriate forum to resolve a potential dispute between a party and their own chosen legal representative.
48. As previously stated, I find that the Landlord unduly obtained an adjournment on May 14, 2024, by anchoring their request on the basis that they were abroad and unable to join the hearing through its virtual format. The testimony provided by the Landlord during the hearing on May 13, 2026, directly contradicted the submissions made both through the *Request to Reschedule a Hearing* submitted on April 25, 2024, and the representations made during the hearing on May 14, 2024.
49. I accept the Tenant's testimony that they spent on or around three (3) hours at the Board on May 14, 2024, and therefore find it appropriate to order the Landlord to pay the Tenant costs in the amount of \$250.00 for the time wasted on May 14, 2024, and an additional amount of \$100.00 for having to unduly prepare and appear before the Board on May 13, 2026. As the Tenant led no evidence with respect to the details of their employment and wages, I do not find it appropriate to award them additional costs.
50. Furthermore, under the circumstances, I find that this is an appropriate case in which to impose costs against the Landlord, in the amount of \$200.00, payable to the Board. Wasting the Board's time, unduly delaying proceedings and attempting to deceive the Board – either willing or unwillingly – should be discouraged.

It is ordered that:

1. The Landlord's application is dismissed.
2. The Landlord, Deanna Sophia Sembecos, shall pay to the Tenant, Anil Ramchan Mohan Mohabir, costs in the amount of \$350.00, on or before May 31, 2026.
3. The Landlord, Deanna Sophia Sembecos, shall pay to the *Landlord and Tenant Board* costs in the amount of \$200.00, on or before May 31, 2026.

May 20, 2026

Date Issued

Alexandre Traboulsi

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 fine or costs must be made to the LTB by the deadline set out above. If not paid, the outstanding amount may be sent to a collection agency and/or the party owing the money may not be permitted to file a new application until it is paid in accordance with section 196 the *Residential Tenancies Act, 2006*.

The fine or costs can only be paid by money order, bank draft or certified cheque payable to the "*Minister of Finance*." The payment can be mailed or couriered to the LTB at 25 Grosvenor Street, Ground Floor, Toronto, ON M7A 2G6 or dropped off at most *Service Ontario* locations.