



Order under Section 31 Residential Tenancies Act, 2006

File Number: LTB-T-092641-24

In the matter of: 191 IRONSTONE DR
CAMBRIDGE ON N1P1A8

Between: Marcelo Herrera Tenants
Gabriel Herrera

And

Anna Klik Landlord

Marcelo Herrera and Gabriel Herrera (the 'Tenant') applied for an order determining that Anna Klik (the 'Landlord'):

- harassed, obstructed, coerced, threatened or interfered with the Tenant.

This application was heard by videoconference on April 30, 2026.

The Tenants' Legal Representative, J. Cusworth, the Tenants' Agent, Reina Herrera, the Landlord's Legal Representative, R. Andrzejewski, and the Landlord, attended the hearing. Karol Klik, supported the Landlord during the hearing.

Determinations:

1. RH advised that Gabriel Herrera (GH) moved out of the rental unit in late 2024.

Preliminary Issue – Payment Agreement

2. At the outset of the hearing, the Landlord's Legal Representative submitted that this application ought to be dismissed as the parties have signed a Payment Agreement (the 'Agreement') wherein they agreed all issues between them are resolved, the Landlord committed to withdraw their L2 application, LTB-L-100713-24, and the Tenants agreed to withdraw this application. In support of this submission, the Landlord's Legal Representative provided a copy email correspondence between the Landlord and one of the Tenants, Marcelo Herrera (MH) on November 15, 2025 and November 26, 2025, into evidence (DOC-7507517pgs3-5). MH's email read as follows:

"Hi Anna, you are correct the payment agreement did dismiss the hearing. We will not be proceeding with the hearing but with that being said we would really like the

floors and baseboards in the basement to be replaced. The aftermath of the leak from last year has caused mold/mildew growth, leaving behind a very unpleasant odor. Sorry for the late reply as I was in the hospital for surgery.

3. The Landlord's Legal Representative also provided into evidence a copy of the Landlord's request to withdraw their L2 application dated April 2, 2025 (DOC-7507517pg26) and a copy of the Agreement, dated February 19, 2025 by the Landlord and February 25, 2025 by MH (DOC-7507517pgs30-31). The Agreement was to resolve application, LTB-L-005870-25, the Landlord's L1 application for non-payment of rent and was on the LTB's standard "Payment Agreement" form. There is no addendum to this form confirming that all issues between the parties are resolved. The form itself lists the current agreed upon rent arrears and costs and sets out a series of payments to be made by the Tenants, failing which the Landlord may file a L4 application.
4. The Tenants' Legal Representative submitted that the Agreement does not bind the parties to a resolution of all issues between them. She also submitted that the email correspondence from MH suggests they are only withdrawing if certain repairs are completed.
5. Based on the evidence before me, I was not satisfied that the parties' Agreement amounted to a full and final resolution of all issues between them. The Agreement only speaks to rent arrears and costs, and provides a remedy only to the Landlord if not met. The Agreement makes no mention of the issues in this application or other issues raised by the Tenants. I find it likely that MH may have been referring to the Landlord's hearing being dismissed after the Agreement was signed as that hearing did not proceed. He also speaks about maintenance issues in the email correspondence which are not the issues raised in this application. Therefore, I was not satisfied that the parties had reached a prior Agreement to resolve the issues in this application.

Preliminary Issue - Amendment

6. The Tenants' Legal Representative submitted that the Tenants filed with the LTB and served the Landlord a request to amend this application on February 27, 2026 (DOC-7466991). The amendment reads:

" I am writing to formally request an amendment to my T2 application (File No: LTB-T-092641-24) pursuant to LTB Rule 15. Since the original application was filed, several significant incidents have occurred that further demonstrate a pattern of harassment and retaliatory behavior by the Landlord.

The following additions have been made to the "Reasons for Application" section:

- October 11, 2024: The Landlord sent an "accidental" text message intended for her legal counsel, referring to the tenants as "this people" and expressing a desire to take legal action. This provides evidence of the Landlord's adversarial intent and bad faith.

- November 9, 2024: The Landlord served an N5 Notice regarding a pond and flower bed that have existed with her knowledge and consent since 2021. This notice was served immediately following my requests for maintenance and professional conduct, and I believe it is a retaliatory act intended to interfere with my reasonable enjoyment of the premises.”

7. The Landlord’s Legal Representative opposed the request to amend citing that the Landlord would be prejudiced as it infringes on the Landlord’s legal rights.
8. Rule 15.4 of the LTB Rules of Procedure provides that the LTB may exercise its discretion to grant a request to amend made at the hearing if satisfied the amendment is appropriate, would not prejudice any party and is consistent with a fair and expeditious proceeding. In this case, the allegations in the original application relate to harassment, the Tenants’ amendment asserts that there have been additional incidents of alleged harassment. The LTB must adopt the most expeditious method of determining the issues in an application affording the parties an adequate opportunity to know the issues.
9. The request to amend the application to include two additional allege incidents is granted. I was satisfied that the Landlord’s Legal Representative’s opposition to allowing the amendment was simply because the Landlord disputes those allegations not that she was not aware of them. The amendment request was served on the Landlord on February 27, 2026, I was satisfied that the Landlord knows the issues to respond to at this hearing and is therefore not prejudiced by their inclusion at the hearing today.

T2 application

10. As explained below, the Tenants did not prove the allegations contained in the application on a balance of probabilities. Therefore, the application is dismissed
11. In this application, the Tenants allege that the Landlord had breached sections 22 and 23 of the *Residential Tenancies Act, 2006* (the ‘Act’). The Tenants allege that the Landlord had been aggressive and made several inappropriate/discriminatory comments which amount to harassment and rely on incidents of the Landlord’s conduct on October 10, 2024 and October 11, 2024, and the service of a notice of termination on November 9, 2024.
12. Section 22 of the Act provides:

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.

13. Section 23 of the Act provides:

A landlord shall not harass, obstruct, coerce, threaten or interfere with a tenant.

14. Harassment is not defined in the Act, however it is generally accepted that harassment is a course of conduct that a person knows, or should know, would be unwelcome by the other person, which is pursued for no legitimate, lawful purpose.
15. The Tenants' Agent, Reina Herrera (RH), who is MH's daughter, and Power of Attorney, and GH's sister, testified that although she was not present and believed it was October 10, 2024, her brother-in-law, who was present, had advised her that the Landlord and her partner were at the rental unit on that day speaking in Polish and made derogatory comments such as insinuating that the Tenants had brought in a mattress off the road. RH also testified that on this date the Landlord slammed open MH's bedroom door and yelled at him.
16. Under cross-examination, RH confirmed that she did not hear any of the comments by the Landlord, but her brother-in-law did and understood them as he also speaks Polish. She also confirmed that the date could have been October 11, 2024.
17. RH also testified that on October 11, 2024 after requesting maintenance at the unit, the Landlord sent an accidental text message to MH referring to him as "these people," which she found discriminatory. RH provided a screenshot of the text message from the Landlord into evidence (DOC-7466993). The text message is undated and reads:

"Can you please tell me what I have to do because I don't have energy anymore for this people"

"Sorry this was not for you for my lawyer"
18. RH further testified that on November 9, 2024, the Landlord served the Tenants with a N5 notice of termination (N5 Notice) requesting that they remove a flower bed which the Landlord has been aware of since 2021. RH asserted that the service of the N5 Notice left MH stressed out and panicked as he believed he had to immediately move out.
19. The Landlord testified that she would not have been at the rental unit on October 11, 2024 as this was a Friday and she was working. However, she did recall attending the rental unit about an issue with water leaking from the bathtub and it would have been on a Saturday or Sunday. She denied yelling at MH or speaking Polish with her partner as he does not speak Polish, he is Italian.
20. The Landlord also testified that she sent the text message to MH in error as the message was meant for her lawyer who she was seeking help from and when she realized she sent it to MH, she immediately apologized.
21. Under cross-examination, when asked what did you mean in the text message, the Landlord replied, it did not mean anything and nothing to do with the rental property or MH. Under redirect, the Landlord confirmed that English is her second language and that she never received any language schooling as she learned English from hearing others.
22. The Landlord further testified that she served a N5 Notice on October 30, 2024 to the Tenants and that it listed a number of items the Tenants have installed without her permission, not just the flower bed, as well as issues she was having accessing the rental unit.

23. Neither of the Tenants testified at this hearing nor did RH's brother-in-law who provided RH with the assertions of the Landlord's conduct on or about October 10 or 11, 2024. RH also had issues with confirming the specific dates of issues, the text message was not dated and the Landlord provided a different date for the service of the N5 Notice.
24. Therefore, the best evidence before me of the incident at the rental unit was from the Landlord. She denied the allegations made by RH of her conduct at the rental unit. The Landlord was not discredited under cross-examination and RH simply relied on hearsay evidence from her brother-in-law.
25. The Landlord did not dispute that she sent the text to MH in error as it was intended for her lawyer. RH took offense with the use of the phrase "this people." While I agree that there is a discriminatory tone when the phrase "these people" is being used, in this case since the Landlord's first language is not English, it is also likely that the connotation of the phrasing of "this people" in the text message may have been a misapplication of the English language. Especially, given that the Tenants have not demonstrated a history of the Landlord using other derogatory or discriminatory to them in other text communications. Therefore, I was not satisfied that this one phrase in this particular text communication supports a finding of harassment toward MH by the Landlord.
26. A landlord is entitled to serve a notice of termination in accordance with the Act if they believed that a tenant has breached sections of the Act. In this case, RH asserted that the N5 Notice was simply retaliatory. RH did not provide a copy of the N5 Notice into evidence, so it was not reviewed in its entirety. The issue RH took with the N5 Notice was that it contained an allegation of an installation of a flower bed which the Landlord was aware of for the past three years. Simply because the Landlord was aware for years that the Tenants installed a flower bed at the rental unit, does not mean that she cannot assert that the installation was done without her permission.
27. A N5 Notice is a remedial notice which provides a tenant seven days to correct the issue and/or dispute the issue at a hearing before the LTB. I was not satisfied that the mere service of this N5 Notice to the Tenants in October or November 2024 amounted to harassment. There was no history presented of invalid notices of termination being served on the Tenants by the Landlord or that this notice was found to be without merit. Based on the Landlord's testimony and not being able to review the N5 Notice itself, I was satisfied that there were other issues on the N5 Notice not just an issue about the flower bed. Therefore, I find it more likely than not that the Landlord was covering all possible grounds when serving this N5 Notice to the Tenants.
28. Since the Tenants have not proven that the Landlord breached the Act, the application is dismissed.

It is ordered that:

1. The application is dismissed.

June 1, 2026
Date Issued

Lisa Del Vecchio
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.