



Order under Section 89 Residential Tenancies Act, 2006

File Number: LTB-L-104804-24

In the matter of: 136 Athlone Crescent
Stratford ON N4Z1H9

Between: Iris Neumeister Landlord

And

Danny Grimwood Former Tenant

Iris Neumeister (the 'Landlord') applied for an order requiring Avery Hulley and Danny Grimwood (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.

This application was heard by videoconference on June 8, 2026.

The Landlord and the Former Tenant Avery Hulley's legal representative, Brianna Skyes attended the hearing.

As of 10:51am the Former Tenant, Danny Grimwood was not present or represented at the hearing although properly served with notice of this hearing by the Landlord. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Preliminary:

Is Avery Hulley a Former Tenant?

1. Tenant legal representative, Brianna Skyes represents only the Former Tenant Avery Hulley (AH).
2. The Tenant's legal representative requested to amend the application to remove AH and any order issued as a result of the hearing.
3. The Tenant's legal representative stated that a prior Board review order (LTB-L-054689-24RV2) had determined that AH was not a Former Tenant as she was not in possession of the rental unit at the time the Landlord's L1 application was filed with the Board.

4. The order issued November 14, 2025 details the Former Tenant vacated the rental unit on November 21, 2021.
5. The Landlord filed the L1 application (LTB-L-054689-24) on July 4, 2024 and this L10 application on December 22, 2024.
6. Amendments to section 87 of the Act make it clear that a tenant may still be considered a tenant even if they do not have possession of the unit. Section 89 allows the Board to order compensation for damages against a tenant or former tenant not in possession where the tenant vacated on or after September 1, 2021, the application was filed within one year of the tenant vacating, and the tenant has been given notice of the application and hearing.
7. While not binding on me based on the facts presented at the hearing I agree with the review members decision in the review order that AH was not in possession of the rental unit at the time the Landlord filed the L10 application.
8. Therefore, the application is amended to remove AH and is reflected in this order.

Determinations:

9. As explained below, the Landlord did not prove the allegations contained in the application on a balance of probabilities. Therefore, the application is dismissed.
10. I am satisfied that the Landlord served the Former Tenant with the application and Notice of Hearing at least 30 days before the hearing and using a method permitted in subsection 191(1.0.1) of the *Residential Tenancies Act, 2006* (the 'Act') and Rule 3.3 of the LTB's Rules of Procedure.
11. The Former Tenant vacated the rental unit on September 21, 2024.
12. The application was filed within one year after the Former Tenant ceased to be in possession of the rental unit.
8. The Landlord alleges the Former Tenant wilfully or negligently caused undue damage to the rental unit or residential complex.
9. The Landlord claims she incurred reasonable costs of \$21,341.91 to repair the damage and / or replace property that was damaged and cannot reasonably be repaired.
10. The Landlord filed evidence with the Board consisting of photos and a damage report by the contractor Winmar, the Landlord hired to perform the repairs.

The Act and Analysis

11. Section 89 of the *Residential Tenancies Act, 2006* (the "Act") states:

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; and

(b) in the case of a tenant or former tenant no longer in possession of the rental unit, the tenant or former tenant ceased to be in possession on or after the day subsection 21 (1) of Schedule 4 to the Protecting Tenants and Strengthening Community Housing Act, 2020 comes into force. 2020, c. 16, Sched. 4, s. 21 (1).

12. Section 16 of the Act states:

When a landlord or a tenant becomes liable to pay any amount as a result of a breach of a tenancy agreement, the person entitled to claim the amount has a duty to take reasonable steps to minimize the person's losses.

13. To be successful on a claim for damages the Landlord must prove on a balance of probabilities that:

- 1) The 'undue' damage was caused willfully or negligently by the Tenant, an occupant, or a guest. damage claimed is "undue"; and
- 2) Where undue damage is proven, the Landlord must also provide sufficient evidence establishing the reasonable cost necessary to repair the damage

14. The Act does not define the term "undue"; however, it is generally understood to mean damage that goes beyond normal wear and tear or ordinary use of the unit.

15. Section 16 of the Act also requires that the Landlord must take steps to mitigate her losses. This means the Landlord is obligated to attempt to perform cleaning and restoration for items deemed 'dirty' or 'unclean' before replacing the items with new ones.

16. The Landlord testified that she did not attend the rental unit immediately after the Tenant vacated the rental unit and hired a contractor to attend the rental unit to perform an inspection.

17. The Landlord stated that the Former Tenant had not paid the hydro bill and electricity was cut from the rental unit. Food left in the fridge turned moldy and the contractor deemed the fridge to be dirty and moldy beyond cleaning.

18. The contractor did not attend the hearing to provide testimony as to whether the fridge was still operable and if he attempted to clean and sanitize the fridge in an attempt to restore it rather than replace it.

19. The Landlord also stated that there was a leak in the water heater that caused mold on the basement drywall beside the furnace. The Landlord stated that the Tenant did not make her aware of the leak which she would have addressed the issue had she known.

20. The Landlord led with insufficient evidence to support her claim that the Former Tenant was aware of the leak and was negligent in reporting it.
21. The Landlord led with insufficient evidence the Former Tenant caused damage to the window, door frame or the bamboo flooring providing no documentary or photographic evidence to support her claim.
22. While I acknowledge there was what I consider to be an excessive amount of dog feces on the outside deck the Landlord did not provide an itemized breakdown of cost for the cleaning of the deck or what the cleaning involved.
23. With the totality of the evidence and submissions before me and on a balance of probabilities I find the Landlord has not proved the allegations the Former Tenant wilfully or negligently caused undue damage to the rental unit.
24. In the alternative even if I have erred in my finding above the Landlord did not prove the reasonable costs that the Landlord claims she incurred or will incur as a result of the damage.
25. Normally on an L10 application for damage I would expect to see documentary evidence to support the Landlord's claims such as quotes from professional contractors, paid receipts, bank or credit card statements or at least cash withdrawal receipts for items paid to repair or replace the damaged items claimed by the Landlord.
26. In the absence of such documents I find the Landlord has not met the burden of proof establishing the reasonable costs.
27. For all the reasons above, the Landlord's application is dismissed.
12. There is no last month's rent deposit.
13. This order contains all reasons for the determinations and order made. No further reasons will be issued.

It is ordered that:

1. The Landlord's application is dismissed.

June 16, 2026
Date Issued

Greg Brocanier
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.