



Order under Sections 30, 31 and 135 Residential Tenancies Act, 2006

File Number: LTB-T-015008-25

In the matter of: 203, 3125 SANDWICH ST
WINDSOR ON N9C1A7

Between: KHADRA AREYS Tenant

And

AMIRACO PROPERTIES INC. c/o YORK Landlord
PROPERTY MANAGEMENT

Khadra Areys ('KA' or the 'Tenant') applied for an order determining that Amiraco Properties Inc. c/o York Property Management ('API' or the 'Landlord') collected or retained money illegally. (T1 application)

The Tenant also applied for an order determining that the Landlord: substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenant or by a member of their household; and harassed, obstructed, coerced, threatened or interfered with the Tenant. (the T2 application)

The Tenant also applied for an order determining that the Landlord failed to meet the Landlord's maintenance obligations under the *Residential Tenancies Act, 2006* (the 'Act') or failed to comply with health, safety, housing or maintenance standards. (T6 application)

These T1, T2 and T6 applications were heard by videoconference on June 4, 2026.

The Tenant, the Tenant's Legal Representative, Christopher Williams ('TTR'), the Landlord's Legal Representative, Charlotte Willaims ('LLR') attended the hearing. Sarah Beth Decaire-Kjarsgaard ('SBDK') and Jeffrey Senay ('JS') were called forward as witnesses for the Landlord.

Determinations:

1. The Tenant led the following exhibits into evidence during the hearing:
 - TT#1 – photos taken by the Tenant herself of the rental unit on September 3, 2024.
 - TT#2 – copy of the Landlord's Incoming Inspection Report dated September 3, 2024.
2. The Landlord led the following exhibits into evidence during the hearing:

- LL#1 – copy of an Incoming Inspection Report for unit 108.
- LL#2 – copy of the signed lease (signed August 23, 2024) between the Tenant and the Landlord.
- LL#3 – copy of September 3, 2024 “work order” for the rental unit in respect of the maintenance work needed to be done.
- LL#4 – copy of September 4, 2024 dated notice to enter, to enter September 9, 2024 to conduct maintenance repairs.
- LL#5 – photos taken by SBDK on September 9, 2024 of the repairs done on that date.
- LL#6 – copy of September 10, 2024 dated notice to enter, to enter September 13, 2024, to conduct maintenance repairs.
- LL#7 – copy of September 13, 2024 dated notice to enter, to enter September 18, 2024, to conduct a preliminary outgoing inspection of the unit.
- LL#8 – copy of the N11 agreement signed by the Tenant on September 13, 2024, with a termination date of November 30, 2024.
- LL#9 – copy of the Preliminary Move-out Inspection Report conducted on September 20, 2024.
- LL#10 – copy of the Final Move-out Inspection Report conducted on October 2, 2024.
- LL#11 – copy of “work order” for rental unit by “turnover team”- work done in August 2024.

3. The parties were able to agree on the timeline of actions/events of the parties before, during and at the end of the rental unit tenancy. Specifically, they agreed to the following:

- The Tenant applied online for a tenancy with the Landlord as she was moving from Edmonton to Toronto to become a student at university.
- On July 16, 2024, SBDK hosted a virtual tour over a videoconference link with AK, showing AK a similar unit to the rental unit being applied for. There had been another tenant in the rental unit at the time so SBDK presented AK with a similar unit on the first floor (#108) to view. (ref: LL#1)
- On July 17, 2024, AK paid a last month rent deposit to the Landlord in the amount of \$1,096.94. AK also paid a “balance” of \$2,164.59 at the outset of the tenancy which comprised a pro-rated rent for 27 days of September (\$989.52), a discounted rent for October 2024 (\$1,075.00) and a refundable key deposit (\$100.00).
- A “welcome” email from the Landlord was sent to AK on or about July 19, 2024.
- The previous tenant in the rental unit moved out on or about August 5, 2024.
- The Landlord’s “turnover team” began preparation work on the rental unit in advance of the rental unit being rented to AK. (ref: LL#11)
- The Landlord’s administration group sent a lease to AK in August and it was signed by the parties on August 23, 2024, which confirmed the tenancy agreement between the Landlord and the Tenant. The lease was for a one-year term starting on October 1, 2024 with a monthly rent of \$1,096.94. (ref: LL#2)
- No direct communication concerning the rental unit was had between SBDK and AK between August 9, 2024 and September 3, 2024.

- On September 3, 2024, AK went into the rental unit for the first time (moving in), with SBDK present. (ref: TT#2 – AK stated she was not present for the inspection whereas SBDK stated AK was present)
 - AK had communicated her displeasure with the rental unit to SBDK on September 3, 2024, which concerned the physical state of the rental unit and the alleged stench inside the unit. (ref: TT#1) SBDK opened up a “work order” on that date to have the complained-about items resolved. (ref: LL#3)
 - AK moved to a temporary location elsewhere while the Landlord attended to the issues raised by AK. AK did not return to the rental unit to live there.
 - Having provided lawful notices to enter, the Landlord entered a number of times between September 9, 2024 and September 30, 2024, to address/resolve all of the complained-about items. (ref: LL#4, LL#5, LL#6)
 - AK informed SBDK and JS that she just could not live in the rental unit, and on September 13, 2024, she signed an N11 agreement to terminate the tenancy, effective November 30, 2024. (ref: LL#8)
 - After receiving the N11 form, the Landlord conducted a preliminary outgoing inspection of the rental unit on September 20, 2024 (AK was not present). (ref: LL#9)
 - AK moved out of the rental unit on October 1, 2024, returning the rental unit keys to the Landlord on October 2, 2024, and the Landlord conducted an inspection. (ref: LL#10)
 - The Landlord then conducted a “turnaround” effort to have the rental unit re-rented to new tenants effective November 1, 2024.
 - New tenants moved into the rental unit on November 1, 2024.
4. As explained below, the Tenant proved the allegations regarding the unlawful retention of the last month’s rent deposit and the key deposit, and the substantial interference claim in the T2 application, all on a balance of probabilities. The Tenant did not succeed in persuading me there was any maintenance breach by the Landlord under the T6 application. Therefore, the Landlord must return the last month’s rent deposit and the key deposit to the Tenant. As well, the Landlord will be ordered to pay a \$109.69 rent abatement in respect of the T2 claim. The T6 application will be dismissed.

T1 application

5. The parties confirmed the Tenant paid rents in full for September 2024 and October 2024.
6. The Tenant gave a signed N11 agreement form to the Landlord with a termination date of November 30, 2024 (LL#8) and while I was not given anything to show the Landlord signed that N11, I was satisfied the Landlord in effect accepted the N11 from the Tenant. This was evident by way of SBDK’s testimony about the preliminary outgoing inspection conducted on September 20, 2024 following the N11 service (LL#9), the efforts after the Tenant vacated on October 2, 2024 to conduct a final inspection, and then “turnaround” the rental unit for a new tenancy (LL#10). SBDK confirmed the rental unit was leased to new tenants starting on November 1, 2024.
7. I believe the real substance of the actions by both parties show they effectually agreed to cancel the one-year lease, move to a month-to-month arrangement and operate the

tenancy in accordance with the N11 that was served. These actions also reflect the parties' attempts to minimize their losses (according to section 16 of the Act)

8. In the end, I find the Landlord did not use the Tenant's last month's rent deposit to pay for the last rental period of the tenancy, which ended on October 31, 2024, and did not return the deposit to the Tenant. This is prohibited by the Act.
9. While claimed under the T2 and T6 applications but not under this T1 application, the claim respecting the refundable key deposit was not contested. The Landlord confirmed having taken a \$100.00 key deposit and not returning it to the Tenant. This, too, is prohibited by the Act.
10. Simply for the sake of completeness, I note that security deposits, or damage deposits by another name, are prohibited by the Act. I refer to section 105 of the Act which sets this out clearly and also to section 234(d) of the Act which defines the collection of a security deposit as an offence, and section 234(g) which states the failure to return a last month's rent deposit is an offence.
11. With regard to any key deposit in a tenancy, reference is made to section 134 of the Act which sets out key and similar deposits are also generally prohibited, but there are exceptions. Such an exception is found in subsection 17(3) of *Ontario Regulation 516/06* (the "Regulations"), which supports the premise that refundable deposits for keys are allowed in tenancies but are to be refunded upon the return of the keys in question.
12. In final submissions, the Landlord stated their intention all along was to return the last month's rent deposit and key deposit, but the Landlord simply wanted to await the outcome of the LTB hearing for the three applications.
13. As such, the order below requires the return of both deposits, that are still being held by the Landlord, to the Tenant.

T2 application

14. Here, I find that there was a significant "mismatch" between the information given to the Tenant by the Landlord (via SBDK) during the virtual tour in July 2024, versus what the Tenant actually found on September 3, 2024 when she entered into the rental unit for the first time.
15. AK testified that what shocked her the most when she entered the unit was the smell of what she described as "spoilage" and the state of the bathroom. AK did say as well that there had been some kitchen cabinet-side and baseboard areas that looked beaten and deteriorated. AK immediately raised these issues with SBDK on that day. SBDK confirmed in her testimony that AK was very upset when AK first viewed the rental unit in person.
16. Both SBDK and JS testified that the smell that was present in the rental unit came from the cleaning and painting jobs that had been done in the unit by the "turnaround team".
17. I note that both the Tenant and Landlord never presented anything that was actually found in the rental unit which could have turned rotten or had spoiled.

18. In my view, the photos taken by AK (TT#1) clearly show the “mismatch” between the rental unit as found on September 3, 2024 and unit 108 as it was shown to AK in July 2024.
19. With regard to the photos found in TT#2, I note SBDK testified the Tenant was present during the TT#2 inspection whereas AK denied being present, saying that the inspection must have been done before she first entered the unit. Whatever the case, the photos of TT#2 actually depict the state of the bathroom just like the photos in TT#1 did, but the photos were shot from a further distance away, thus de-emphasizing the problem areas that were vividly shown in the close-up photos of TT#1.

Misrepresentation

20. AK alleged the Landlord (via SBDK) misrepresented the state of the unit, but I do not believe the Landlord (SBDK or any other Landlord staffer) tried to misrepresent anything at any time. I say this for the following reasons.
21. AK had elected to take a virtual tour of the rental unit in July 2024, turning down SBDK's suggestion of an in-person tour. I fully understand why AK had elected to do so as she was in Edmonton at the time, but certainly the virtual tour was not forced upon AK by SBDK.
22. From SBDK's testimony, I was also satisfied with the extent to which she had gone to give AK as thorough a tour as was possible. As the rental unit was rented at that time, SBDK stated the Landlord's policy was that rented units could not be entered into and shown to prospective tenants due to privacy reasons. As a result, SBDK showed AK a similar bachelor unit (#108) which had been empty and had undergone a “turnaround” cleanup. SBDK explained this to AK at the time. SBDK also explained that unit 108 was on the east side of the building whereas the rental unit was on the west. SBDK walked to the rental unit door so AK could see what it looked like and also SBDK ventured into the outside parking lot to show AK the rental unit window from outside. In my view, there was nothing in SBDK's actions to suggest there was any hint of trying to mislead or misrepresent— she tried to give AK the most complete tour that she could at the time.
23. While no intentional misleading or misrepresentation was at play, it was quite evident that the rental unit on September 3, 2024 failed to match what had been shown to AK in the unit 108 tour.
24. I reviewed the photos in TT#1 and agree that on a balance of probabilities, the Tenant was justified in feeling very disappointed about the state of the rental unit, particularly the bathroom itself. For example, the “gunk” that the Tenant had testified was prevalent – around the base of the toilet and along the baseboard under the toilet – was present and quite unsightly and off-putting. The tub was not in a good state of repair – deterioration where tub-tiles met the drywall, staining especially in the brown/yellow grouting that was quite visible, rusted tub fixtures/faucets, etc. A further example was the bathroom floor tiles (small square tiles) which were also in need of cleaning up, especially the grouting between the small tiles. The drywall between the tub and the toilet was in clear need of a patchwork / clean up job. The toilet itself appeared to be poorly cleaned around the seat and at the base. The Tenant also testified that the bathroom door itself was ill-fitted as it could not be closed fully.

25. I note that the remaining maintenance issues, *inter alia*, a chip in the bathroom sink, kitchen cabinetry and baseboards damage all represent important issues but in of themselves would not amount to someone reasonably becoming shocked by their presence. Indeed, I see these other issues as simply exacerbating what had been truly off-putting to the Tenant when she first saw the bathroom.

Odour

26. With regard to the foul smell or smell of “spoilage”, I am unable to determine what exactly the complained-about odour was. The Tenant’s description amounted to calling the odour a stench, whereas SBDK’S and JS’ separate descriptions placed the odour as something that cleaning materials and water-based or oil-based paints leave.
27. Apart from the Tenant’s description, there was no evidence to show something had rotted or spoiled and there was no one brought forward by the Tenant to provide first-person corroboration of her testimony. As such, I was more persuaded by the separate testimonies of SBDK and JS, whose testimonies stood up to cross-examination. That is to say, I was more persuaded that most likely, the clean up materials and the painting of the unit left an after-odour that the Tenant found offensive, but this did not translate in my view to something wrong in the unit.

Uninhabitable unit

28. Finally, I must also address the Tenant’s testified-to claim that the rental unit was uninhabitable, and that the Landlord was responsible for that.
29. In this case, I do not believe the rental unit was uninhabitable. Nothing was adduced into evidence to show the rental unit failed to meet any one or more health, safety or maintenance standards, never mind trying to show whether those failed standards made the unit uninhabitable.
30. I agree the rental unit bathroom lacked aesthetical cleanliness on September 3, 2024, and in fact was in a real need of clean-up repair, but the state of the bathroom did not render the rental unit uninhabitable. For example, the living area and kitchen photos in TT#2 show a bright, clean configuration with clean, newer fridge and stove appliances (compared to LL#1-unit 108).
31. In cases similar to the one at this hearing, I find that parties often times have different standards or expectations when it comes to finding a place suitable for living. What one person finds totally acceptable, another perceives otherwise. And when that happens, I find that differences need to be sorted out by respectful confrontation, discussion/exchanges and then resolution.
32. When AK made her complaints known to SBDK on September 3, 2024, the evidence shows SBDK took the complaints seriously and she promptly got her maintenance staff involved (i.e. JS et al.). The work that JS and his staff did in September 2024 was quite quick and professional, resulting in a bathroom that was clean, bright and functional around September 5, 2024 (LL#5), only two days after the Tenant first saw the unit. All

taken together, I believe the rental unit was habitable all along, and certainly moreso (vis-à-vis anyone's standard level or expectation) as of September 5th onwards.

Substantial interference claim

33. Returning to the "mismatch" determination above, I find that this "mismatch" created a valid basis for the substantial interference claim made in the Tenant's T2 application and during the hearing.
34. More specifically, substantial interference with reasonable enjoyment under section 22 of the Act can arise from maintenance issues such as there were in this case. Reference is made to section 8 of *Ontario Regulation 516/06* (the "Regs"). That section applies every time a tenant claims a landlord has substantially interfered with her/his reasonable enjoyment when the interference is caused by "work". And "work" is defined as maintenance, repairs or capital improvements carried out in a rental unit or a residential complex. The repair work in this case meets this definition, especially as the need for that repair work was totally unknown and unforeseen by the Tenant prior to her moving in on September 3, 2024.
35. The Tenant expected, and quite rightfully so, that the rental unit would have been in the same or better state that unit 108 had been in when she "toured" it in July 2024. In my view, therefore, that repair work on September 3, 2024 indeed qualified as "unreasonable" work needed because of the inadvertent and unfortunate circumstance of "mismatching" that had occurred.
36. To be clear, section 8 of the Regs is not intended to dissuade or deter landlords from undertaking maintenance, repairs or capital improvements. It is there to deal with situations when the work under certain circumstances creates substantial interference. For sake of clarity, subsection 8(3) of the Regs says: "*the Board shall not determine that an interference was substantial unless the carrying out of the work constituted an interference that was unreasonable in the circumstances with the use and enjoyment of the rental unit or residential complex by the tenant or former tenant, or by a member of the household of the tenant or former tenant.*"
37. I provided this finding of substantial interference at the hearing, and indicated the Tenant would be entitled to a small abatement of rent to address the breach, but nothing more as the Landlord was indeed responsive, professional and effective in resolving the issues raised on September 3, 2024. Toward this end, I am granting a 10% rent abatement for the month of September 2024. In my view, the Landlord promptly resolved all maintenance issues and any decision by the Tenant to not live in the rental unit after the Landlord's good efforts cannot be held against the Landlord, and certainly not to the Landlord's account in respect of the Tenant's decision to find alternative living arrangements, etc.

Harassment, obstruction, coercion, threat or interference claim

38. Very little was testified-to or submitted on this section 23 claim directly. Indeed, nothing from either side, either from testimonies or from evidence adduced, showed there had been any actions that would be deemed as obstruction, coercion or interference.

39. To be clear, the Landlord's actions at no time forced, bullied or compelled the Tenant into taking a "virtual tour", entering the tenancy or leaving the tenancy. As well, nothing was given to suggest the Landlord created obstacle or hindrance for the Tenant to live in the rental unit, and certainly to any meddling, intrusion or impeding of the Tenant's ability to move in or live in the rental unit.
40. I do accept that when the Tenant informed the Landlord she was going to move out and wanted to break her lease, the Landlord did put up some restriction as to what the Landlord was willing to do. That is, the Landlord did agree to let the Tenant out of her one-year term lease if she signed an LTB form agreement (i.e N11) to move out. The Landlord did not have to do that, but in a cooperative effort, the Landlord did.
41. That form agreement resulted in an N11 that was signed by the Tenant and contained a termination date of November 30, 2024. However, the Tenant surrendered her keys to the Landlord on October 2, 2024, so when the Landlord told the Tenant her last month's rent deposit might not be returned, the Landlord was just doing what was lawful under the circumstances at the time. The Tenant had paid rents up to October 31, 2024 and a last month's rent deposit could have covered November 2024 rent, had the Landlord been unable to re-rent the unit for November 1, 2024. Therefore, I find that the assertion of one's rights, respectively asserted as was done by the Landlord here, cannot be construed as some sort of threat or as a form of harassment.
42. This section 23 claim as a result cannot succeed and must fail.

T6 application

43. As explained below, the Tenant did not prove the allegations contained in the T6 maintenance application on a balance of probabilities. Therefore, the T6 application is to be dismissed.
44. For me to consider the submissions of both parties, I am guided by case authority from the courts. In *Onyskiw v. CJM Property Management Ltd.*, 2016 ONCA 477, the Court of Appeal held that the LTB should take a contextual approach and consider the entirety of the factual situation in determining whether there was a breach of the landlord's maintenance obligations, including whether the landlord responded to the maintenance issue reasonably in the circumstances. The court rejected the submission that a landlord is automatically in breach of its maintenance obligation as soon as an interruption in service occurs.
45. In this T6 application, the evidence submitted made it quite evident that the Landlord promptly and reasonably responded to the Tenant's maintenance complaints, which were first made on September 3, 2024. The Landlord's maintenance team was actioned by SBDK on September 3rd, JS and his team began substantial repairs on September 5th and they finished their work some two visits later on or about September 30th.
46. This, to me, shows the Landlord gave serious regard to the Tenant's stated feelings and concerns, and quite frankly, resolved the maintenance issues in a timely fashion so as to satisfy the Landlord's obligations under section 20 while trying to keep the tenancy intact.

47. It was the Tenant who unilaterally decided to move out (in effect breaking her lease) and in this regard, I find the Landlord was understanding and accommodating of the Tenant's desire to exit this short-lived tenancy.

It is ordered that:

1. The Tenant's maintenance (T6) application is dismissed.
2. The total amount the Landlord shall pay the Tenant is \$1,354.63. This amount represents:
 - \$1,096.94 for the last month's rent deposit;
 - \$100.00 for the key deposit;
 - \$109.69 for the abatement of rent stemming from the substantial interference claim; and
 - \$48.00 for the cost of filing the T1, T2 and T6 applications.
3. The Landlord shall pay the Tenant the full amount of \$1,354.63 owing by June 29, 2026.
4. If the Landlord does not pay the Tenant the full amount owing by June 29, 2026, the Landlord will owe interest. This will be simple interest calculated from June 30, 2026 at 4.00% annually on the balance outstanding.
5. The Tenant has the right, at any time, to collect the full amount owing or any balance outstanding under this order.

June 18, 2026
Date Issued

Alex Brkic
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.