order under Section 31
Residential Tenancies Act, 2006

Citation: Kirkham v Taylor, 2026 ONLTB 52674
Date: 2026-07-21
File Number: LTB-T-002813-24

In the matter of: 1, 33 Sussex Street North
Lindsay ON K9V4H3

Between: Mackenzie Kirkham — Tenant

And

Greg Taylor — Landlord

Mackenzie Kirkham (the 'Tenant') and Natalie Kirkham-Huard applied for an order determining that Greg Taylor (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. **(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)**

This application was heard by videoconference on December 10, 2024 and June 5, 2026.

The Landlord, the Landlord's representative, Yonatan Kramer, the Landlord's witness, Jill Hiltz, the Tenant and the Tenant's representative, Nadine Little, attended the hearing on December 10, 2024.

The Landlord, the Landlord's representative, Tayler Gerow, the Tenant and the Tenant's representative, Krystle Pegg, attended the hearing on June 5, 2026.

Determinations:

Preliminary Issue

Application is amended

1. The parties agreed that Natalie Kirkham-Huard was an occupant within the meaning of the Act and that the application should be amended to delete Natalie Kirkham-Huard as a tenant. The application was amended accordingly.

T2 Application

Background

2. The tenancy commenced on October 27, 2011. The Landlord took over the property in October 2020. The Tenant vacated the unit on September 15, 2023. The basement contained laundry facilities and a storage area.

3. The unit was located on the main floor of a Victorian home. There were two other units in the home, one on the second floor and one on the third floor.

4. At the time the Tenant vacated, the monthly rent was $1,098.61.

Substantial interference

5. The Tenant claims that the Landlord substantially interfered with the Tenant's reasonable enjoyment of the rental unit or the residential complex by failing to adequately address maintenance issues as well as issues that arose between her and other tenants in the house, predominantly the second-floor tenant.

6. The Tenant testified she has had issues with the tenant above her (i.e. second-floor tenant) since the commencement of the tenancy but noise only became an issue in 2022.

7. On March 3, 2022, she emailed the Landlord about loud noise coming from the second-floor tenant (i.e. children, loud voices). She admitted this was not a complaint but rather just to advise the Landlord that he should mention the lack of soundproofing to future tenants. The noise stopped thereafter.

8. On June 13 and 15, 2022, she had two disagreements with the second-floor tenant on June 13 and 15, 2022, one regarding items the Tenant left on the front step for a missing boy, the other because her acupuncturist parked in the second-floor tenant's parking spot. She said that the Landlord dismissed her complaints about the two incidents [Doc 4621545, page 42] and ignored her suggestion of mediation.

9. In November 2022, the Tenant started parking her new car in the four-car garage (each tenant had an assigned parking spot). The Landlord asked the Tenant if she could park her car a little closer to the house in the garage since the second-floor tenant said she was having trouble getting in and out of her car. In response, the Tenant sent a detailed email to the Landlord identifying all the issues she was having with the second-floor tenant and asked the Landlord to tell the second-floor tenant to stop making noise and to stop harassing her [Doc 4621545, pages 26-28]. The Landlord told her he would talk to the second-floor tenant.

10. On January 7, 2023, the Tenant advised the Landlord that she was again having issues with noise caused by the second-floor tenant but said that the Landlord provided no feedback.

11. In April 2023, the Tenant met with the Landlord and his wife to discuss issues she was having with the second-floor tenant. It was the Tenant's understanding from that meeting that if the second-floor tenant continued her disruptive behaviour, the Landlord would proceed with an LTB application.

12. In May 2023, the Tenant reported another incident to the Landlord and asked if he was going to move forward with an LTB application. Two weeks later that Landlord advised he had spoken with the second-floor tenant and would hold off on an LTB application.

13. In June 2023, the Tenant complained about noise from the upper tenant's television. The Landlord responded, saying that he was out of the country and suggested that she should leave a note in the second-floor tenant's mailbox. After she told him she was not comfortable doing so, he spoke with the second-floor tenant and the volume decreased.

14. The Tenant made further complaints about noise on July 9, July 31 and August 3, 2023. After the August 3, 2023 complaint, the Landlord told her he would send a note to the second-floor tenant and that she should call the police. Before she did so, police called her and threatened her with harassment charges because they received a call from the second-floor tenant. She emailed the Landlord to advise that matters were escalating, after which he told her he did not think the unit would ever suit her need for quietness and that the second-floor tenant felt very intimidated by the Tenant. The Tenant believes his tone towards her changed because she was moving out.

15. On September 7, 2023, the Tenant was in the process of moving and she placed all of her garbage on the curb for pick up. She saw the third-floor tenant videotaping her garbage and when she approached her, the third-floor tenant was verbally aggressive. The Tenant called police and emailed the Landlord about the incident. He responded two days later thanking her for the keys and advising her to leave her keys in the mailbox. He did not comment, however, on the behaviour of the third-floor tenant but rather stated that it was in the hands of the police.

Landlord's evidence

16. The Landlord testified that when he took over the property, he was not aware of any disputes between the tenants. He stated, however, that whenever he received a complaint from the Tenant, he made sure the other tenant was aware of the complaint (either through phone call, in person meeting, text message or email) and what he expected them to do to resolve the complaint. He produced some examples of how he dealt with complaints [Doc 4638936], including having the second-floor tenant move her air-conditioner from her living room to the kitchen (i.e. given its previous proximity to the television, the second-floor tenant had increased the volume on her television so that she could hear it over the air-conditioner).

17. The Landlord stated that when he was repairing the Tenant's dining room ceiling following a leak when he took over the property, he took advantage of the repairs (i.e. ceiling had been ripped out) by having the ceiling insulated with sound proofing insulation [Doc 4638924, page 17]. He did not insulate any other ceilings in the Tenant's unit because 1) it would have required tearing out all of the ceilings and displacing the Tenant and 2) he had not received any noise complaints (i.e. he had just bought the property).

18. He confirmed that he spoke with the second-floor tenant about her behaviour stemming from the parking issue with the Tenant's acupuncturist and removal of the Tenant's property from the porch. He also met with the second-floor tenant after receiving the Tenant's complaint about noise (stomping and banging). The second-floor tenant denied any intentional

stomping or banging, stating that she only vacuums her floors and goes around the house as usual.

19. He denied that he ever told any of the tenants in the home that he did not want to hear or deal with their issues. The only issue where he told the tenants they had to work things out themselves was the parking garage after the Tenant got a new car (i.e. larger). The second and third floor tenants resolved the situation by changing parking spots in the garage.

20. He did not deny that he told the Tenant he had no update for her after receiving complaints about the second-floor tenant but stated this was because he had already spoken with the second-floor tenant and asked her to cease any noises that might be extra loud.

21. He stated that the day he and his wife met with the Tenant for two hours, he and his wife proceeded upstairs and met with the second-floor tenant for the same amount of time.

22. He stated that he advised the Tenant that if she wanted him to proceed with an LTB application, he would need a written summary of all of the events so that he could issue an N5 notice. The Tenant did not provide him with same and told him an N5 notice was not her goal. He said that while he may not have responded to every message from the Tenant (they were prolific), he read all her messages and denied that there were any complaints from the Tenant which were not addressed. In support of this, he produced email and text messages with the Tenant [Doc 4638948].

23. The Landlord confirmed that since the Tenant vacated, he has received no complaints from any tenants in the residential complex.

24. On cross-examination, the Landlord confirmed that he did not serve an N5 notice on the second-floor tenant because the Tenant stated she did not one anyone evicted. He confirmed that he never attended the Tenant's unit to listen to noise she complained about because the Tenant always sent her complaint after the incident. He did state, however, that he was in the Tenant's unit many times during her tenancy and not once did he hear a noise or a television. There were many times when he would call the Tenant, rather than emailing or texting her, to confirm receipt of her complaint and to advise her that he would be speaking to the other tenant(s) about those complaints.

25. The Landlord stated that he did install vinyl flooring on the second floor which had better soundproofing than the original wooden floors.

Landlord's witness – Jill Hiltz ('JH')

26. JH testified that she moved into the third-floor unit (i.e. unit 3) on September 1, 2021. She stated that in the summer of 2022, she was speaking with the second-floor tenant on the porch when the Tenant came and questioned the second-floor tenant. After the second-floor tenant refused to talk with the Tenant and started to return to her unit, the Tenant started yelling.

27. She stated that when the second-floor tenant asked to switch parking spaces with JH, they both went into the garage to measure JH's parking spot to ensure it would fit the second-floor tenant's car. The Tenant then came into the garage screaming so loudly they did not know what she was saying. The Tenant eventually returned to her unit.

28. JH denied that she video-taped the Tenant's garbage on September 7, 2023, stating "*why would I do that"*?

29. On cross-examination, JH confirmed that she exchanged phone numbers with the Tenant so they could deal with any disputes that arose between themselves. She said that while their exchanges were pleasant enough at the beginning of her tenancy, they were not near the end and that she would just say what she thought the Tenant wanted to hear to keep the peace [Doc 4621469, pages 30-33].

T6 application

30. In the application, the Tenant alleges that the Landlord failed to repair or maintain the unit and residential complex with respect to a multitude of items.

31. Section 20 of the Act provides:

> (1) A landlord is responsible for providing and maintaining a residential complex, including the rental units in it, in a good state of repair and fit for habitation and for complying with health, safety, housing and maintenance standards.
>
> (2) Subsection (1) applies even if the tenant was aware of a state of non-repair or a contravention of a standard before entering into the tenancy agreement.

32. Section 29(1) of the Act provides:

> A tenant or former tenant of a rental unit may apply to the Board for any of the following orders:
>
> 1. An order determining that the landlord has breached an obligation under subsection 20(1) or section 161.

33. Section 29(2) of the Act provides:

> No application may be made under subsection (1) more than one year after the day the alleged conduct giving rise to the application occurred.

34. The Tenant's application was filed on January 13, 2024. Therefore, pursuant to Section 29(2), the Tenant was permitted to raise any issues that first arose on or after January 14, 2023.

35. After reviewing the eighteen (18) items raised by the Tenant's [Doc 2577674], as well as considering the Tenant's submissions with respect to the garage door, it was determined that sixteen (16) of those items were statute barred. As such, the T6 application dealt with the two remaining issues which were not statute barred, being storm damage and hot water heater.

Storm damage

36. The Tenant testified that on August 3, 2023, there was a hailstorm in the area which damaged some windows in the home (i.e. the second-floor unit and the third-floor unit) and the garage door.

37. The Tenant stated that a window that was broken in the home (i.e. the second-floor unit above her) caused glass to fall onto the concrete outside the back entrance door and grass at the side of the house where the Tenant takes her dog. Given that the window was not "*stabilized"*, they presented an ongoing hazard to the Tenant and her family.

38. The Tenant produced photographs taken by her after the hailstorm [Doc 4620980] showing the following:

    Page 15: one small piece of glass on the concrete and one small piece of glass on the grass beside the concrete, taken on August 3, 2023

    Page 16: Broken glass and/or white plastic in some of the window panels of four-car garage door and broken glass in one of the window panel's of the second-floor tenant's unit, taken on August 8, 2023

    Page 17: Broken glass in the same window panel of the second-floor tenant's unit and broken glass and/or white plastic in some of the window panels of the four-car garage door, taken on August 26, 2023

    Page 18: Broken glass in one of the window panels of four-car garage door and broken glass in the same window panel of the second-floor tenant's unit, taken on September 6, 2023

    Page 19 Broken glass in the same window panel of the second-floor tenant's unit, taken on September 13, 2023

39. The Tenant stated that she advised the Landlord about the broken glass on August 9, 2023. He responded that the other tenants had already reported the damage and asked about the Tenant's unit (it was undamaged). She raised concerns about the instability of the broken glass in the windows and was advised to steer clear of the area because he had people attending the property on August 11, 2023 to inspect the broken glass. When the Tenant vacated the unit on September 15, 2023, the windows had not yet been fixed, except for one window in the garage on September 9, 2023. The Tenant admitted that she was not using the garage during this point in time due to other issues. Had she been doing so, however, the broken glass in the garage door panels would have prevented her from being able to open and close the garage door.

40. The Tenant admitted that the broken windows in the upper units were not above her entrance way but maintained that pieces were continually falling and blowing onto the concrete beside her entryway and the area where she walked her dog. The Tenant's position is that the Landlord should have removed the broken glass from the windows in order to ensure everyone was safe and he did not do so. This left her feeling unsafe.

41. On cross-examination, the Tenant admitted that the storm did not affect her ability to access her unit via the shared entrance but did limit her use of her preferred entrance.

42. The Landlord confirmed that one window in the second-floor unit as well as three separate glass panes in the garage were damaged by the hailstorm. He testified that the other tenants in the home contacted him within one day told him that they had picked up all the glass,

cleaned up and taped over the doors. As such, the Landlord believed damage at the rental property had been contained. In the meantime, he contacted his contractor (Harper Window and Doors) and attended the unit with them on August 11, 2023. The contractor assessed the glass stability in the second-floor unit, deemed everything was fine, then took measurements for the replacement window. Given that the house is a heritage home, a replacement window had to be custom made. The replacement window was installed on September 27, 2023 at a cost of $4,034.10.

43. The Landlord stated that he did not observe any glass on the ground when he attended the unit on August 11, 2023. He was not aware of any more glass falling from the second-floor unit after the storm. He said the window contractor told him there was no danger of glass falling out and he relayed this assurance to the Tenant on August 11, 2023.

44. With respect to the garage doors, the Landlord stated that after inspecting the damage, he personally replaced all of the windows in the garage doors with plexiglass that was custom ordered to size. The installation took place two weeks after the storm.

Hot water tank

45. The Tenant stated that when she was moving out, she observed water on the floor in the basement around the hot water tanks (one tank for each unit). She texted the Landlord about the issue on September 3, 2023. On September 4, 2023, the Landlord asked the Tenant to take photographs of the water. Despite not staying at the property, the Tenant attended the property, took photographs of the three hot water tanks and sent them to the Landlord [Doc 4620980, page 20]. The Tenant does not know when the issue was resolved since the last time she was in the basement was on September 8, 2023. She admitted that this issue did not affect her use of her unit, did not impede access to any of her personal items nor damage any of her personal belongings. She said it highlights the Landlord's lack of communication in resolving issues.

46. The Landlord stated that after receiving the photographs of the water around the hot water tanks from the Tenant, he attended the property the evening of September 4, 2023 and inspected the tanks. After discovering a small leak in one of the tanks, he ordered a replacement tank from Home Depot, picked it up and installed it the evening of September 8, 2023. He said the replacement tank cost him $800.39.

47. He stated that the hot water tank that he replaced did not service the Tenant's unit. As such, his communications regarding the tank and its replacement were with another tenant in the home.

Analysis

48. In addition to section 20 of the Act, which is relevant to the T6 application, the following sections of the Act are relevant to the T2 application:

> **22** 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.
>
> **23** A landlord shall not harass, obstruct, coerce, threaten or interfere with a tenant.

49. 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. Although *Onyskiw* deals with a breach regarding a maintenance obligation, I am satisfied that the Court of Appeal provides a guiding framework for the analysis of alleged breaches in other situations, including substantial interference.

50. To my mind, what the Court of Appeal is urging in *Onyskiw* is for the Board to pay attention to the "big picture" in each case - to take a hard and practical look at what is really going on in each matter, including scrutiny of the essential basis/nature of a tenant's complaints (para. 86) and the steps, if any, taken by the Landlord (para. 19 through 21).

51. With respect to the T2 application, I find that although the Landlords' response to the Tenant's complaints was not perfect, it was reasonable in the circumstances. I found the Landlord's testimony to be credible, forthright and sincere and I have no reason to doubt the truthfulness of his testimony. Given that the second-floor tenant is elderly, I find it plausible that the Landlord's communications with that tenant were mainly by phone call or in person. I am not persuaded by the submissions of the Tenant's representative that the lack of phone records or witnesses to corroborate those phone calls or visits means that they did not happen. I am satisfied that the Landlord responded promptly to the Tenant's complaints after being notified of problematic behaviour by other tenants.

52. While the Landlord did not serve the second-floor tenant with an N5 notice, the Tenant admitted that she told the Landlord that she did not want to evict anyone and had responded that an N5 notice was not her goal. As such, I accept that the Landlord interpreted that to mean that the Tenant did not want him to initiate LTB proceedings. Furthermore, there is no evidence before me that the Tenant ever sent the Landlord a full written complaint documenting all issues since he took over as Landlord, as requested by him if she wished him to proceed with an LTB application.

53. I do not find the audio recordings produced by the Tenant to be particularly helpful. Given that they are audios recordings, I am unable to confirm, for the most part, where the Tenant was recording from (i.e. inside her rental unit, common hallway or outside of second-floor tenant's unit) or whose television was on. Any audio I was able to hear was faint. Furthermore, the Tenant did not produce any audio recordings of stomping or banging coming from the second-floor tenant.

54. While the Landlord did admit that he told the tenants to sort out the parking issue themselves when he raised it with the Tenant, the evidence confirms that this was done almost immediately by the tenants in the second and third floor switching parking spots. There is no evidence before me that the issue was not resolved.

55. Therefore, I am not satisfied that the Tenant has established that the Landlord acted unreasonably in responding to issues she had with other tenants in the building, in particular the second-floor tenant. As such, I find that the Landlord did not substantially interfere with the reasonable enjoyment of the rental unit or residential complex by the Tenant or by a member of their household.

56. I also find the allegations above do not constitute harassment of the Tenant. While the Tenant claims the Landlord placed of poison (for pests) in or around the unit and ignored her pleas to keep her dog safe, no dates or specifics were provided regarding this incident in the application nor was this raised in the hearing. I find therefore that the Tenant has abandoned their claim related to this incident and the Tenant has failed to make out any claim related to harassment.

57. With respect to the T6 application, I am not satisfied that the Landlord failed to meet their obligations under subsection 20(1) of the Act to repair or maintain the rental unit.

58. With respect to the hailstorm, the Tenant confirmed that she only notified the Landlord about the broken glass from the hailstorm on August 9, 2023. The Landlord and his window contractor attended the property two days later, on August 11, 2023. While he admitted that the other tenants had advised him about the storm damage earlier, they had also informed him that all glass had been cleaned up. Furthermore, his window contractor inspected the second-floor window and assured him that there was no danger of more glass falling to the ground below. The Tenant did not challenge the Landlord's evidence that he relayed this assurance to her after the window contractor's inspection. The Tenant did not produce any photographs of additional glass on the ground thereafter to corroborate her testimony that glass continued to fall. There was no evidence before me that the Landlord could have had a replacement window installed earlier than September 27, 2023. As such, I find the Landlord's response to the Tenant's complaint of August 9, 2023 was reasonable.

59. With respect to the broken glass in the garage door, the Landlord admitted that using the garage door before the broken glass was replaced could have dislodged further pieces of glass to fall. However, there is no evidence that more glass fell from the garage door after the storm and it is undisputed that the Landlord replaced all of the broken windows in the garage with plexiglass. Given that the Tenant admitted that she was not using the garage at the time because she did not trust the pulley system, I find the timeliness of the Landlord's response in fixing the garage door was reasonable.

60. Therefore, the Tenant's application is dismissed.

It is ordered that:

1. The Tenant's application is dismissed.

July 21, 2026
Date Issued

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Karen Gonçalves
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.