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Elenara Silvestrin, Respondent )) William Silvestrin, Representative  
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William Silvestrin, Respondent )) Self-represented  
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## INTRODUCTION

[1] This Application alleges discrimination with respect to housing because of the receipt of public assistance contrary to [section 2](#) of the *Human Rights Code, R.S.O. 1990, c. H.19*, as amended (the “*Code*”).

[2] For the reasons that follow, the Tribunal finds that the applicant has failed to establish, on a balance of probabilities, that the respondents breached [section 2](#) of the *Code*. As such, the Application will be dismissed.

## THE MERITS HEARING

[3] The Tribunal conducted a one-day merits hearing during which it heard *viva voce* testimony from three witnesses (the applicant and both respondents). In addition, 17 exhibits were admitted into evidence (all on consent).

## BACKGROUND

[4] Sephora Terzakis (“the applicant”), met respondent Elenara Silvestrin (“E.S.”), at a dentist’s office where E.S. worked. As both are originally from Brazil, and speak Portuguese, they struck up a conversation. The applicant was studying in Canada and was unhappy with her living arrangements. In what appeared to be a happy coincidence, E.S. and her son, respondent William Silvestrin (“W.S.”), each owned a house and rented rooms to students from Brazil. E.S. owned a house on Caledonia Road while W.S. owned a house on Gilbert Avenue, both in the City of Toronto.

[5] It came to pass that the applicant moved into a room in E.S.’s house on Caledonia Road on October 4, 2017. This was never intended to be a long-term rental. The house on Caledonia Road was for sale, and E.S. had hoped to sell it by the end of 2017. As such, E.S. told the applicant that she could stay in the house until the end of December. The applicant indicated that she was fine with that arrangement, as she had hoped to return to Brazil in order to spend Christmas and New

Year's with her family (Exhibit 14). (It so happened that the house on Caledonia Road did not sell by the end of 2017 and the applicant did not return to Brazil for the Holidays.)

[6] If the applicant and E.S. were not quite friends, their relationship can certainly be described as "friendly", at least initially. For example, E.S. invited the applicant to have Thanksgiving dinner with her and W.S. By all accounts, that dinner turned out to be a very pleasant gathering. Alas, the relationship subsequently soured, due largely to an unfortunate misunderstanding.

[7] That misunderstanding revolved around the term of the tenancy agreement and the date on which rent was to be paid. E.S. testified that, when the applicant moved in, she had told the applicant that each month-long rental period would end on the fourth day of the month. Nevertheless, E.S. also testified that she later sent a message to the applicant (Exhibit 16) asking her to pay her rent on the last day of the month, as that was when the bills were due.

[8] Since E.S. had been asking her to pay her rent on the last day of the month, the applicant decided to prorate her February 2018 rent so that the term of the tenancy would correspond with the beginning and end of each month. Unfortunately, she did not first discuss that idea with E.S. Nevertheless, on January 31, 2018, the applicant sent the following message to E.S. (Exhibit 2, page 10/17):

Elenara, I made the following deposit for you related to the February rent: \$545.16 (\$650 minus the 5 days I have already paid for the first month, because I entered on the 6<sup>th</sup> day and not on the 1<sup>st</sup> day. So \$650 divided by 31 days and multiplied by 5 equals \$104.84). For the month of March, now that we've adjusted the payment to the date you prefer, which is the end of the month, then the payment of \$650 will be ok.

[9] Clearly, this came as a surprise to E.S., who either did not understand what the applicant was trying to do or did not approve of her attempt to prorate the rent. In any event, E.S. became upset (by her own admission) and sent the following reply (Exhibit 2, page 10/17):

No, you pay \$650 and [leave] on March 5<sup>th</sup>. I don't rent per day. It is better this way.

I know you don't have money. You're getting paid by the government, I understand. You can pay on February 5<sup>th</sup>. And leave the room on March 5<sup>th</sup>. I will need it.

[10] That same day, the applicant sent E.S. an electronic transfer in the amount of \$545.16. E.S. refused to accept the transfer and sent another strongly worded reply saying, "The value is \$650. Please correct it. it can be paid on Feb 05<sup>th</sup>. Your last day will be on the morning of March 05<sup>th</sup>. Thank you" (Exhibit 9).

[11] The situation got worse still: it is uncontested that their misunderstanding resulted in several heated discussions between E.S. and the applicant. Indeed, the state of affairs became sufficiently stormy that the police attended the house on a number of occasions.

[12] On February 8, 2018, E.S. served the applicant with a Landlord and Tenant Board (“LTB”) form called a “Notice to End your Tenancy For Non-payment of Rent N4” (Exhibit 8). The notice stated that the applicant owed E.S. the amount of \$650 for the period February 6, 2018, to March 6, 2018, and further stated that the landlord could apply to the LTB to have the tenant evicted if the amount was not paid by February 22, 2018.

[13] Without notifying E.S., the applicant moved her belongings out of the house on February 15, 2018. She returned three days later in order to hand in her keys and to show E.S. that she had left her room in a clean state. On that day, the police became involved once again. The applicant never paid the full \$650 that was owed for her February rent and E.S. never accepted the prorated amount.

[14] The applicant filed an application with the LTB claiming that E.S. “harassed, obstructed, coerced, threatened or interfered with the Tenant, entered the rental unit illegally and substantially interfered with the reasonable enjoyment of the rental unit”. A hearing commenced before the LTB on April 17, 2019. At that time, however, the applicant requested the consent of the LTB to withdraw her application, and the application was withdrawn on a without prejudice basis (Exhibit 3).

## **ANALYSIS**

[15] As mentioned above, E.S. sent a text message to the applicant in which she said “I know you don’t have money. You’re getting paid by the government, I understand. You can pay on February 5th. And leave the room on March 5th. I will need it”. That statement is the crux of this Application. The applicant says that the statement ought to be interpreted as meaning that E.S. was evicting her because she was in receipt of public assistance. Moreover, the applicant suggests that she had never told E.S. that she was receiving money from the government. In submissions, the applicant said, “I never told even my family. Why would I tell her I was receiving government money?”. As such, the applicant says that she believes that E.S. must have been opening and reading her mail.

[16] E.S. provides a different interpretation of the statement. In her testimony, E.S. admitted that she got upset when the applicant tried to prorate her rent, as she had believed that the applicant was trying to pay rent on a daily basis rather than on a monthly basis. Additionally, she had thought that the problem might have been caused when she had asked the applicant to pay at the end of each month. As such, although she was upset, she told the applicant that she could pay on the fifth of the month, as she knew that was the day on which the applicant received her money from the government. In actuality, the applicant had messaged E.S. that she usually got her money on the third of every month (Exhibit 16).

[17] E.S. added that she was aware that the applicant received money from the government because the applicant had asked her for a letter as proof of residence. The applicant had told her that she needed the letter for both her bank and the government. Indeed, E.S. did provide the applicant with such a letter dated October 24, 2017 (Exhibit 5). E.S. also testified that she did not mind if her tenants received assistance from the government, as she herself had relied on public assistance for a short time after she had separated from her husband. In cross-examination, E.S.

added that she had no problem if the applicant received assistance from the government, as “it’s a guarantee that she will get the money”.

[18] The Tribunal finds that this case is not genuinely about the receipt of public assistance. Rather, it began because of an unfortunate dispute over slightly less than \$105. First, the applicant unilaterally prorated her rent and transferred to E.S. a sum that was less than the agreed-upon amount. Next, in the mistaken belief that the applicant was attempting to pay rent by the day instead of by the month, E.S. refused to accept the lesser amount and told the applicant to pay the full amount. Then, with the rent still owing, E.S. served the applicant with an eviction notice. Finally, the applicant left the house and never paid the full sum owed for her February rent.

[19] While cross-examining E.S., the applicant admitted that she had made an error when she prorated her rent (she had moved in on the fourth day of the month, not the sixth) and suggested to E.S. that this was an insufficient reason to have served her with an eviction notice. E.S. admitted that she had become upset and that she had told the applicant to pay the full amount and to leave the following month. Moreover, it is uncontested that the applicant did not pay the \$650 that was owed for her February rent and the eviction notice was for non-payment of rent.

[20] E.S.’s decision to evict the applicant may well have been heavy handed. However, whether E.S. unlawfully evicted the applicant for non-payment of rent is not a matter for this Tribunal. Rather, that is a matter for the LTB to be decided under the [Residential Tenancies Act, 2006, S.O. 2006, c. 17](#). In a similar vein, while the applicant may believe that E.S.’s actions were disproportionate and unfair to her, the Tribunal does not have the power to deal with general allegations of unfairness that are unrelated to the [Code: Mehedi v. Mondalez Bakery, 2023 ONSC 1737](#) at para. 15.

[21] Under section 2 of the [Code](#), however, the Tribunal does have jurisdiction to deal with allegations that a person has been denied housing because they are in receipt of public assistance. As such, it appears to the Tribunal that the applicant latched onto the phrase “You’re getting paid by the government” in order to bring the Application within the Tribunal’s jurisdiction, even though the applicant’s receipt of public assistance was never a factor in the dispute between the applicant and E.S.

[22] The Tribunal notes that, in her correspondence with E.S. (Exhibits 2 and 14-17), as well as in her correspondence with W.S. (Exhibits 11 and 12), the applicant raises numerous complaints about E.S. but never once mentions a concern that she is being run out of the house because she is in receipt of public assistance.

[23] Additionally, the applicant has mischaracterised other aspects of her relationship with the respondents in order to improperly bootstrap her case. The first such allegation is that E.S. unlawfully increased her rent. The second such allegation is that W.S. was trying to intimidate the applicant on behalf of his mother.

[24] As mentioned above, the first mischaracterised allegation is that E.S. unlawfully increased the applicant’s rent. It is agreed that the applicant was initially to pay \$550 per month and that, beginning in February 2018, the applicant was to pay \$650 per month.

[25] The respondents say that the rent was initially set at \$650 per month. They say, however, that the applicant was given a \$100 per month discount after she agreed to supervise her housemates in maintaining the cleanliness of the home. As the house was being visited by prospective buyers, it was particularly important to E.S. that it be kept neat and tidy.

[26] E.S. had been living in W.S.'s house on Gilbert Avenue. She testified that she visited Brazil for a month, believing that the applicant would be in charge of the house on Caledonia Road. She said that, when she returned from Brazil on January 1, 2018, she went to check on her house and found it to be very dirty. E.S. then decided to move into her house on Caledonia Road so that she could personally oversee its cleanliness. That being the case, the agreement with the applicant ended, and the applicant was asked to pay the full rent of \$650 per month.

[27] The applicant, on the other hand, denies that there was any such agreement or discount. Rather, the applicant says that her rent was set initially at \$550. She says that, at the end of January 2018, she was told that her rent was being raised by \$100 to \$650 per month beginning in February. She said that she initially refused, told E.S. that the rent increase was unlawful, and suggested that E.S. contact the LTB for guidance.

[28] The applicant's assertion is not credible, as it is belied by the preponderance of the evidence. For example:

a. in a text message to E.S. dated October 31, 2017 (Exhibit 16), the applicant said, "you arranged with me \$550 to take care of the details in the house, welcome people and supervise the cleaning. And I've been doing all that". E.S. replied, "Sephora, thank you for looking after the house. And if you want to keep doing that, I can keep giving you a \$100 discount. But I don't want to push it. Only if you want to...";

b. on November 6, 2017, E.S. issued a receipt to the applicant in the amount of \$550 in payment of the room for the month of November (Exhibit 7). That receipt said, "Payment with discount of \$100 for the room rental"; and

c. on January 30, 2018, E.S. sent a message to the applicant (Exhibit 17) in which she said, "Hey! I'm not going to give you a discount on your rent anymore. It'll be \$650 for February. Thank you!". The applicant replied, "Oh, it's ok. Got it. But then from February onwards I am no longer responsible for passing any house rules and I am also not responsible if your tenants do not get organized in the cleaning and if they leave dirt. It's good because I have more time for myself and more peace too..."

[29] Not only does the above-mentioned evidence contradict the applicant's assertion that there had never been a \$100 per month discount, but it also contradicts the applicant's assertion that she had initially refused to pay the increased amount, had told E.S. that the rent increase was unlawful, and had suggested that E.S. contact the LTB for guidance. Indeed, it appears that the applicant welcomed the new arrangement as she would have "more time for [herself] and more peace too". The Tribunal finds, therefore, that the applicant has invented the allegation of an unlawful rent increase in order to bolster the Application.

[30] The second allegation that was made to improperly bolster the Application pertains to E.S.'s son, W.S. It is not disputed that W.S.'s part in this affair was limited to corresponding with the applicant through e-mail during the period February 13 to 15, 2018 (Exhibits 11 and 12). The applicant suggests that, in his e-mail messages, W.S. was trying to intimidate her on behalf of his mother. In the Application, she alleged the following:

At least once, E.S. said directly to me, in the kitchen of the house: "I have not yet told my son to interfere in this matter on my behalf, but if I ask him, he will deal with you".

Then [E.S.] gave my email address to her son, [W.S.], who sent me emails with false accusations and also ultimatums, telling me to meet him in person up to a certain date and time. But he refused disclose by email the real purpose of the meeting. He said "to negotiate". I felt threatened and vulnerable.

[31] The applicant's version of events on this issue is simply not credible, as it does not at all accord with the content of the e-mail messages. For example, W.S. began the exchange of e-mail messages saying, "in no way am [I] forcing you to make a deal I'm just trying to come to an agreement to best solve this issue and that all parties agree on" (Exhibit 11, p. 4/5).

[32] The following day (9:36 a.m.), the applicant's reply included the following: "I have known you as a very polite and calm person and I appreciate your personality, although we have not met many times. I trust that your request is sincere and I wonder if there is anything I could do" (Exhibit 11, p. 4/5). W.S. replied (Exhibit 11, p. 3/5):

My mom never wanted you out at all. She's always like you. She would call you her friend all the time. I think it was just a misunderstanding on both of your parts and now we are in the situation we are in. My goal is to come to a conclusion that works for everyone. And I think I came up with something. I wrote out an agreement and I can bring it by so you can look at. If you like the agreement you can sign it. If you don't, you don't have to sign it. Tell me what time I can come by

[33] In a later e-mail (12:29 p.m.), the applicant said "As I said before, [let's] all work together to get out of this situation peacefully and avoid further stress for all of us. I count on you on this" (Exhibit 11, p. 2/5).

[34] W.S.'s e-mail messages are hardly those of an individual intent on intimidating the applicant. Rather, they are those of someone who had adopted a mediatory role in the hope of finding a peaceable solution to the conflict. Similarly, the applicant's responses to W.S. are not those of an individual who feared W.S. or who "felt threatened and vulnerable". Given the above, the Tribunal rejects the applicant's assertion that W.S. was trying to intimidate her on behalf of his mother, as that assertion is not in harmony with the preponderance of the evidence. Rather, the e-mail correspondence between the applicant and W.S. appears to the Tribunal to have been mischaracterised by the applicant so that she could both include W.S. as a respondent and bolster her case against E.S.

[35] In summary, the Tribunal finds that the dispute between the applicant and E.S. was the unfortunate result of a misunderstanding that occurred when the applicant attempted to prorate her rent. E.S. may well have overreacted, but the Tribunal does not have the power to deal with general allegations of unfairness. The allegations that the applicant was denied housing because she is in receipt of public assistance, that E.S. unlawfully raised the applicant's rent, and that W.S. tried to intimidate the applicant on behalf of his mother were made either to bring the Application within the jurisdiction of the Tribunal or to improperly bootstrap the applicant's case. In short, the applicant has failed to demonstrate, on a balance of probabilities, that the respondents breached [section 2](#) of the [Code](#). As such, the Application will be dismissed.

## **ORDER**

[36] The Application is dismissed.

Dated at Toronto, this 21<sup>st</sup> day of June, 2023.

*"Signed by"*

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Anthony Michael Tamburro  
Vice-chair