



## Order under Section 31 Residential Tenancies Act, 2006

**Citation:** Haghghi v Wang, 2024 ONLTB 947

**Date:** 2024-02-21

**File Number:** LTB-T-012391-22

**In the matter of:** 909, 77 SHUTER ST  
TORONTO ON M5B0B8

Tenant

**Between:** Aida Haghghi

**And**

Guifang Wang

Landlord

Aida Haghghi (the 'Tenant') applied for an order determining that Guifang Wang (the 'Landlord'):

- substantially interfered with the tenant behaviour has substantially interfered with another tenant's or the landlords reasonable enjoyment of the residential complex or the lawful rights, privileges or interests of the Landlord
- 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

This application was heard by videoconference on December 14, 2023.

The Landlord's Representative, Yun Tao Li, and the Tenant attended the hearing. Hao Want, the Landlord's son attended the hearing.

Preliminary Issue:

Will the Board allow amendments to the application:

1. No. At the hearing the Tenant made a request to add a new issue claiming the Landlord retained the last month rent deposit illegally. The issue giving rise the amendment was not part of the original application and the amendment is a material change subject to an application under section 135 of the Act, which is not properly before me. The amendment is also statute barred since the amendment is out of time. The Tenant had one year to file or amend the application from the date she vacated which would include the period and since the amendment was filed on December 14, 2023, it is outside the one-year limitation period (March 10, 2022 to March 10, 2023) and is statute barred.

Determinations:

2. As explained below, the Tenant proved the allegations contained in the application on a balance of probabilities. Therefore, the Landlord must pay the Tenant \$393.00 which

represents a rent abatement plus the cost of the application. The tenancy is also terminated on March 31, 2022.

Substantial interference:

3. On January 25, 2022, there was a flood in the residential complex that affected several units in the condominium complex. The Condominium corporation made holes in the drywall and left several fans in the unit to dry up the water and moisture. The condominium corporation sent several letters to effected residents, of which the Landlord also received the communication that apprised of them of actions taken. There were fans placed in the unit at least from January 26 to 28, 2022. By February 3, 2022, at 4:13, the Condominium emailed the Landlord stating, "the drying process has been completed and she [inferencing the Tenant] can stay in the unit if necessary". The Landlord was also sent a letter dated February 9, 2022, that identified the responsibilities of the owners which included replacement of the floors.
4. The Landlord and her son were abroad, and they did not enter the unit at any time to inspect the damage. The Landlord relied on the information from the Condo corporation that floors required replacement, which is evident from the email dated February 16, 2022, from the Landlord to the condominium corporation asking whether they have a contractor to recommend replacing the floors of which they responded on February 18, 2022, stating, "we will certainly ask and let you know".
5. The Tenant testified the Landlord was unresponsive and his realtor, who acted as her Agent informed her, she had no authority to act on the Landlord 's behalf. The Tenant was not given the Landlord's contact information until March 2, 2022, when the Tenant reached out to the Landlord asking when the floors would be replaced. Receiving no response, the Tenant sent a follow up email on March 3, 2022. The Landlord did not respond but testified he followed up with the condominium about contractor referrals. On March 5, 2022, at 16:39 the Landlord received confirmation that a contractor would be available to replace the floors on the same day the condo conducted repairs in the Tenant's unit which were expected to take place around May 19, 2022. The Landlord did not communicate his plan of action to the Tenant leaving her in limbo.
6. On March 9, 2022, the Tenant stated she informed the Landlord she was moving out having received no communication from the Landlord during the five weeks after the flood took place. I find the Landlord substantially interfered with the Tenant's reasonable enjoyment of the unit. The Tenant suffered a loss given the havoc the flood caused, and I do not find that the Landlord acted reasonably in dealing with the problem having chosen to remain silent. The Landlord lack of response to keep the Tenant apprised caused a state of limbo where the Tenant could not utilize the unit for all normal intended purposes until the floors were replaced. The photographs the Tenant provided shows all her property in piles as fans were running which explains the disarray her unit was in. I also find under the circumstances that the Landlord did not fulfill his duties to do the repairs within a reasonable time frame. Although the Landlord was informed that the unit was livable on the contrary the Tenant testified it was uninhabitable. I find the Landlord's breach is serious enough to terminate the tenancy on March 31, 2022.

7. In this case there is an overlap between section 20(1) which deals with repairs and maintenance and section 22 which deals with substantial interference with reasonable enjoyment. I recognize both apply in this situation however an abatement of rent for substantial interference with reasonable enjoyment is not limited by the provisions in O. Reg 516/06, s.8 which doesn't apply because an application before me is not filed under section 20 of the Act. Even if it applied, there's no dispute the Landlord did not replace the floors after the Tenant vacated having chosen to re-rent the unit in August 2022 without doing the replacing the floors.
8. I find the Landlord took no reasonable action to communicate to the Tenant as to when the repairs would be conducted having chosen to remain silent despite receiving clear communication from the property manager of the condominium informing him of the flood and repairs required. I find a 20% abatement is reasonable for February 2022 rent period in the amount of \$345.00 ( $\$1725.00 \times 25\%$ ). No abatement is reasonable for the January 5 to 31, 2022 as the flood was a result of a latent defect which the Landlord would have no knowledge nor would there have been an expectation to replace the floors while the unit was drying. Having terminated the tenancy March 31, 2022, which was before the end of term on the tenancy agreement and given that the Tenant informed the Landlord she was moving out on March 10, 2022 which was an illegal notice to terminate the tenancy an abatement for March is not reasonable.
9. The Tenant is responsible for her out of pocket expenses including Internet and insurance premium. There was no information about the Tenant's actions to mitigate her losses nor am I satisfied the Landlord's responsible for the Tenant's costs as a result of his lack of response.
10. The Landlord also owes the Tenant \$48.00 for the cost of the application.

**It is ordered that:**

1. The total amount the Landlord shall pay the Tenant is \$393.00. This amount represents:
  - \$345.00 for a rent abatement.
  - \$48.00 for the cost of filing the application.
2. The Landlord shall pay the Tenant the full amount owing by February 2, 2024.
3. If the Landlord does not pay the Tenant the full amount owing by February 2, 2024, the Landlord will owe interest. This will be simple interest calculated from February 3, 2024 at 7.00% annually on the balance outstanding.
4. The Tenant has the right, at any time, to collect the full amount owing or any balance outstanding under this order.
5. The tenancy between the Landlord and the Tenant is terminated as of March 31, 2022.

**February 21, 2024**

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**Date Issued**

Sandra Macchione  
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.