



## Order under Section 30 and 31 Residential Tenancies Act, 2006

**Citation:** Goldfeder v Kanagathurai, 2024 ONLTB 962

**Date:** 2024-01-03

**File Number:** LTB-T-032395-23

**In the matter of:** 6, 139 Cowan  
Toronto ON M6K2N1

Tenant

**Between:** Kelly Goldfeder

**And**

Paval Kanagathurai

Landlord

Kelly Goldfeder (the 'Tenant') applied for an order determining that Paval Kanagathurai (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.

AND

Kelly Goldfeder (the 'Tenant') applied for an order determining that Paval Kanagathurai (the 'Landlord'):

- entered the rental unit illegally.
- substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenant or by a member of their household.
- harassed, obstructed, coerced, threatened or interfered with the Tenant.

These applications were heard by videoconference on June 28, 2023.

Only the Tenant and the Tenant's witness Brandon Kennedy attended the hearing.

As of 1:15 p.m., the Landlord was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Tenant's evidence.

### **Determinations:**

#### Preliminary issue:

1. The Tenant brought forward a preliminary motion to have her hearing in camera, relying on *Interpretation Guideline 18 – Restricting Access to In-Person and Electronic Hearings*.

2. While the Tenant had made accommodation requests in prior proceedings before the Board, one such file noted was TSL-14520-20, she had not made the same request in this application based on time to prepare and cost of medical notes limitations. The Tenant however made compelling submissions in respect of her disclosed disability, fear for her personal safety as related to her appearing in a prior newspaper article, the aftermath of backlash from what was described as her advocacy work and details of how she would be impacted if the matter proceeded in a public forum.
3. In consideration of the totality of factors, the Tenant's submissions and review of the supporting medical documentation before the Board, the hearing proceeded to be heard in camera.

### T2/ T6 applications

4. The Tenant filed the combined T2/T6 applications with the Board on April 25, 2023 for issues dating back to October 12, 2017. In the applications where directed to provide an explanation for each reason to describe the allegation or claim, the Tenant writes "*please see attached*" and no further particulars are provided. To support the applications, the Tenant relied on the evidentiary submission titled "Organized T2:T6 Binder" submitted to the Board on June 28, 2023.
5. While the Landlord was not present to make submissions, presuming they received the Tenant's T2/T6 applications, they provided them with very minimal or no understanding of the allegations they had to defend against. The present applications before the Board outline no particulars, state no times or dates for the alleged events/incidents.
6. The Tenant must understand that applications filed with the Board must disclose a clear case to be met. The Tenant has appeared as self represented before the Board on prior occasions as the issues between the parties are long standing. If the Tenant continues to file incoherent applications, the Board may dismiss such an application without a hearing and or declare the Tenant to be a vexatious litigant.
7. Furthermore, a number of the issues the Tenant raised in the applications before me; lack of heat, lack of adequate electricity, lack of clean water, and disrepair to sink have been addressed in prior Board Orders. Specifically in the Landlord's L1 application TSL-14520-20/ LTB-L-074002-22 dated December 14, 2022, in which the Tenant raised issues of disrepair pursuant to section 82 of the Act. In the decision the member states, "*I heard the Tenant's disrepair complaints regarding improper heat, inadequate lighting, pests, lack of clean water, improper ventilation, and leak from the kitchen sink.*"
8. In that prior Board proceeding, the Tenant while provided the opportunity to make section 82 submissions did not attend the final adjourned hearing date of November 25, 2022. In the final determinations, the member wrote, "the Landlord asserted that the same issues were heard and resolved by the Board in order TST-13196-20, TST-04627-19, TSL-04247-19 and TSL-17519-20 issued by the Board on September 7, 2022. As a result, no determinations will be made on those issues in this order as not only is the Tenant absent, but the issues were resolved by the Board who found in paragraph 21 that "*The overwhelming evidence, including the Tenant's own testimony, shows that the Landlord has*

*been denied access to the unit to perform maintenance and repairs. There is no evidence any other tenants in this residential complex have had issues such as those raised by the Tenant, and to the contrary the Tenant's own witness testified that he is fine with the Landlord". The Tenant's applications were dismissed by the Board."*

9. In the case before me, the Tenant's witness once more indicated that any of his own disrepair issues have been and continue to be addressed by the Landlord, pointing again to the same conclusion as per the prior Board Order.

*Res Judicata*

10. If the Tenant's applications clearly disclosed the case to be met by the Landlord, I would have to dismiss any parts of the application that had been previously heard and determined. The Tenant continues to file applications raising the same issues, making the same claims, claims that are between the same parties, and that have a final determination of by the Board. The Tenant has an obligation to bring all issues within the same cause of action before the Board at the same time, in order to avoid multiple proceedings. To this end, the Tenant submitted that in the current applications there is new evidence that was not available at the last hearing and that the former proceedings in TSL-14520-20 were tainted by fraudulent and dishonest submissions of the Landlord and or the Landlord's witnesses, impacting the final determination.
11. In addressing the outcome of the prior Board Order, the Tenant initiated an appeal, *Goldfeder v. Kanagathurai*, 2023 ONSC 6130 which ultimately resulted in a dismissal.
12. Based on the foregoing, the Tenant is hereby put on notice of Rule A8 of the Board's Rules of Practice which reads as follows:
- A8.1 The tribunal may make such orders or give such directions in proceedings before it as it considers proper to prevent abuse of its processes.
- A8.2 Where the tribunal finds that a person has persistently instituted vexatious proceedings or conducted a proceeding in a vexatious manner, the tribunal may find that person to be a vexatious litigant and dismiss the proceeding as an abuse of process for that reason. It may also require a person found to be a vexatious litigant to obtain permission from the tribunal to commence further proceedings or take further steps in a proceeding.
13. If the Tenant wishes to file an application with the Board she should strongly consider seeking assistance needed to ensure that her application is sufficiently clear so that the Landlord and the Board understand the nature of her claims.
14. This order contains all of the reasons for the decision within it with respect to the Tenant's application. No further reasons shall be issued.

**It is ordered that:**

1. The Tenant's applications are dismissed.

**January 3, 2024**  
**Date Issued**

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Alicia Johnson  
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.