



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

**Citation:** Whittaker v Aleem, 2024 ONLTB 61065

**Date:** 2024-08-30

**File Numbers:** LTB-T-073538-22

LTB-T-073550-22

**In the matter of:** 3259 RASPBERRY BUSH TRAIL  
OAKVILLE ONTARIO L6L6V6

**Between:** Robert Whittaker  
Suzann Whittaker

Tenants

**And**

Muhammad Aleem  
Humail Jamil  
Kiran Naz

Landlords

Robert Whittaker and Suzann Whittaker (the 'Tenants') applied for an order determining that Muhammad Aleem, Humail Jamil and Kiran Naz (the 'Landlords') 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.

Robert Whittaker and Suzann Whittaker (the 'Tenants') also applied for an order determining that Muhammad Aleem, Humail Jamil and Kiran Naz (the 'Landlords') substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenants or by a member of their household, and harassed, obstructed, coerced, threatened or interfered with the Tenants.

The Tenants brought two applications (T2 and T6) which were heard together by videoconference on August 12, 2024.

The Landlord's legal representative Elena Grigorieva, the Landlord Muhammad Aleem, the Tenants, and the Tenant's legal representative Eric Steiman, attended the hearing.

### **Determinations:**

#### Preliminary Issues

##### Amendments to the Applications

1. When the hearing commenced, the Tenant's representative requested an amendment to the applications submitting an issue plead in the T2 application in relation to stairs could also be decided under the T6 application and requested that I consider the issue of the stairs under both s. 29(1) and s. 20 of the Act.

2. The Tenant's representative further submitted that they were not seeking double recovery of damages but that based on the nature of the issue with the stairs, it could be decided under both relevant provisions of the Act.
3. The Landlord's representative made submissions that the amendment should be denied on the basis that the Tenant's representative has had sufficient time to request any required amendments and had not served or filed a written request to amend the applications.
4. In this matter, the issue relating to stairs was claimed in the T2 application and the Tenant is not seeking additional damages, instead seeking to advance the issues with stairs "in the alternative".
5. At the hearing, I allowed the amendment having consideration for Rule 15.4 of the Board's Rules of Procedure which provides:

**15.4** The LTB may exercise its discretion to grant a request to amend made at the hearing if satisfied the amendment is appropriate, would not prejudice any party and is consistent with a fair and expeditious proceeding.
6. The T2 application disclosed the Tenant's claim in relation to the stairs and I find the amendment to be appropriate, the prejudice to the Landlord is minimal as there are no additional remedies being sought, and an adjournment would not be appropriate given the procedural history of these files. The issue was disclosed in the T2 application for which an adjournment would not have had the effect of minimizing any prejudice.
7. In addition to the amendment request at the hearing, I also inquired as to whether amended applications had been served and filed as there was indication in the Board's records that additional amendments had been requested by the Tenant.
8. Amended T2 and T6 applications had been filed by the Tenant and the Landlord's representative acknowledged receipt of the amended applications making submissions that the amended applications were the applications she had received and was prepared to proceed on the amended applications.
9. The hearing proceeded on the two amended applications filed by the Tenant.

#### Limitations Issues

10. I inquired with the parties about the limitation period contained in s. 29(2) of the Act as some of the claims made by the Tenants date back to 2018. The Tenant's application was filed on October 14, 2020.
11. The Tenant's representative conceded that some of the issues would exceed the limitation period in s. 29(2) but that the evidence will be that the issues were ongoing and therefore, a remedy can be ordered up to one year prior to the filing of the applications from October 13, 2019, which falls within the limitation period.

12. As I ruled at the hearing, the earliest date from which a remedy can be ordered is October 13, 2019 based on s. 29(2).

Parties to the Application

13. A request to amend the applications also sought to add two Landlord parties: Humail Jamil and Kiran Naz, neither of whom were present or represented at the hearing.
14. The Tenant's representative made submissions that Humail Jamil previously owned the property but that the property is currently owned by Muhammad Aleem and Kiran Naz.
15. A lease was tendered in evidence at the hearing showing the Landlords as Muhammad Aleem and Humail Jamil at the commencement of the tenancy.
16. I find that Humail Jamil was a Landlord and liability for any issues will be apportioned jointly between Humail Jamil and Muhammad Aleem until the sale that occurred in December, 2020. Any liability found for issues after December, 2020 will be apportioned jointly as against Muhammad Aleem and Kiran Naz as the evidence before me is that they are current owners.

Tenants Vacated

17. The Tenants vacated the rental unit on May 10, 2021.

T2 Application

18. As explained below, the Tenants did not prove the allegations contained in the application on a balance of probabilities. Therefore, the application is dismissed.
19. Only the Tenant Robert Whittaker testified on behalf of the Tenants, and Muhammad Aleem testified for the Landlords.
20. The Tenants' T2 application makes the following claims:
  - a. The Landlords failed to provide rent receipts;
  - b. Deficiencies in basement stairs rendering them unusable;
  - c. The Landlords entered the property and took pictures of the Tenant's belongings. The Tenant alleges contractors also attended and took pictures;
  - d. "Incorrect notices" served by the Landlords- N5 and N13 notices;
  - e. Water valve leaked causing worry for flooding.
  - f. LEA appliances said they will not return to the Tenant's rental unit because of the Tenant's behaviour.

- g. Stanz Appliances harassed the Tenants by phone due to inaccurate information from the Landlords.

#### Landlords Failing to Provide Rent Receipts

21. The Tenant testified that they only received receipts “after a lot of trouble” and that the Tenants required receipts from their Landlords as they declare a portion of their residence on their taxes.
22. The Tenant gave evidence that they requested receipts in February, 2018 and didn’t receive them. The Tenant’s request was prompted by the necessity to provide receipts to their accountant and the Tenant made a follow-up request on March 1, 2018. The Landlords provided a receipt on the date of the Tenant’s follow-up request on March 1.
23. The Tenant further testified that the issue of receipts was always a problem with the Landlord at one time citing personal problems and declining to provide receipts. The Tenant’s evidence is that the Landlord told them he would provide yearly receipts but would not provide monthly receipts.
24. As this was the only specific incident testified to by the Tenant in relation to receipts, I find that this incident falls outside of the one year limitation period. The Tenant’s subsequent testimony that the issue of receipts “was always a problem” is insufficient on which to make a finding that the Landlords failed to provide the Tenants with receipts. There is no further evidence of the Tenants making demands for rent receipts or evidence of the Landlords failing to provide receipts.

#### Basement Stairs

25. The Tenant testified that they have operated a home-based business since 1987 and part of the appeal of the rental unit was the basement as the Tenants intended to use the basement for work purposes.
26. The Tenant testified that they had to turn a second bedroom into a “cramped” office as the basement was not usable due to issues with the stairs to the basement.
27. The Tenant’s evidence is that while moving in they made the discovery that the stairs were unsafe. The Tenant testified that the staircase to the basement is a standard builder’s staircase and the stairs had been covered in flooring pieces which were glued in place on each stair tread. The stairs also had stair nosing installed and two separate floor planks covered the tread of the stairs.
28. The Tenant further testified that the glue was not applied properly to the floor pieces and that it was applied in a “pancake” shape resulting in voids in the glue and with heavy usage from putting belongings in the basement, the Tenant’s evidence is that the stairs started to disintegrate under his feet.

29. The Tenant also testified that every stair tread was not stable rendering the stairs unsafe and that the Tenant requested a carpet runner the day they moved into the property.
30. The Tenant also tendered in evidence an "OBC Stair Analysis" which was a diagram prepared by himself and suggested the issue with the stairs could have been remedied simply with a carpet runner.
31. Despite the Tenant's representative making submissions in relation to issues with the "rise and run" of the stairs, no evidence was given in relation to the stairs not conforming to building codes or municipal standards and the issues before me relate solely to the stair tread and nosing issues claimed.
32. The Tenant tendered in evidence a list of maintenance issues dated November 2, 2019 which notes the issue with the stairs specifically, "broken and uneven treads". The Tenant testified that the list was personally delivered to the Landlords when he was checking a thermostat or smoke detector and that the Landlord was asked to repair the stairs several times.
33. The Tenant also testified that the Landlords did not send anyone to fix the stairs as the Landlords initially could not find someone to do the job and when the Landlords finally got around to addressing the issue, COVID-19 created further delays.
34. The Tenant's evidence is that they could not use the basement as desired and the Tenant would catch their footwear and socks on the stairs.
35. The Tenant testified that the Landlords did attempt to fix the stairs himself by putting green tape over the loose stair nosing and used finishing nails to nail down some of the stair treads.
36. The Tenant's evidence is that the Landlord's repair job made the stairs more dangerous and the Tenants had to wear shoes when using the stairs. Despite wearing shoes, the Tenant testified that the nails would catch their shoes and he tripped on two occasions.
37. The Tenant also testified that to assist movers, and because the stair pieces were loose, the Tenant removed the flooring pieces from the stairs and stacked them in the basement, leaving them for the Landlords when the Tenant vacated.
38. Pictures of the stairs were tendered in evidence by the Tenant and the first picture shows the stairs after the Landlords had attended and used tape on the stairs.
39. I do not find this photograph depicts what the Tenants assert is an issue with the staircase. The only issue that can be observed from the photograph is a piece of stair nosing that is clearly missing. The angle of the photograph does not show the stair treads and there are no visible nails in the picture. During the Landlord's testimony it was clarified that the first picture was likely taken some time in 2018 but it was unclear whether it was the Landlord or the Tenant who took the photograph.

40. The Tenant also referred to another photograph after the flooring had been removed from the stairs. The Tenant testified that this photograph depicts the application of the glue showing the improper application resulting in the flooring pieces not adhering to the stair tread.
41. The Tenant's evidence is that after removing the flooring it can be seen that the finish on the stairs was inappropriate as the picture shows the reflectivity of the floor with the Tenant asserting the stairs are "shiny" and therefore slippery.
42. The Tenant also referred to another photograph showing the stairs being carpeted by the Landlord after the Tenant had vacated testifying that the Landlords did what the Tenant originally suggested but only after they vacated the property.
43. The Tenant's evidence is that the state of the stairs prevented them from using the basement for their intended work purpose and because of the inability to use the basement due to the stairs, this caused a substantial interference with their reasonable enjoyment of the rental unit for all usual purposes.
44. The Landlord testified that they signed a lease for residential purposes only and were not informed the Tenants intended to use the basement to operate their business. A copy of the lease agreement was tendered in evidence.
45. The Landlord further testified that the stairs were completed by the previous owner of the house and the rental unit was previously occupied by another tenant for 6 months prior to these Tenants taking occupancy. The Landlord's evidence is that they never received any complaints from the former tenant about issues with the stairs.
46. The Landlord testified that the picture referred to by the Tenant purporting to show issues with the stairs only shows an issue with the stair nosing and that the issue is purely cosmetic. The Landlord further testified that any nails in the stairs would be on the edge and there was sufficient glue on each floor panel.
47. The Landlord also testified that the stair nosing has nothing to do with the strength of the stair covering and that at no time did he observe the issues with the stairs as alleged by the Tenants.
48. The Landlord further testified that he had an expert attend to look at the stairs and at that time the Tenants had removed the flooring from the stairs. The Landlord's position is that the Tenants removed the floor pieces from the stairs intentionally to frustrate the Landlord's attempt to investigate and repair.
49. The Landlord also testified to correspondence between himself and the Tenants wherein he attempted to make arrangements to undertake repairs to the floor on two occasions scheduled for March 21, 2020 and again in May, 2020. The Landlord's evidence is that this was during the time when COVID-19 was prevalent and the beginning stages of the pandemic.

50. The Landlord's evidence is that both attempts to complete the work in 2020 were frustrated by the Tenant making demands in relation to COVID protocols including requesting identification from individuals entering, requiring PPE, and requesting health conditions of those entering for which the Landlord asserts he did not have control to enforce with third party contractors.
51. The Landlord further testified that after having issues with scheduling a contractor to complete the work on May 30, 2020, the Tenant was offered the option to make arrangements to complete the repairs with the Landlord offering to pay for the repairs up to \$400.00 to which the Tenant did not reply.
52. The Landlord gave evidence that after the Tenants vacated a carpet staircase runner was installed for \$445.00 and, after accounting for inflation, would have cost less at the time the Landlord offered to pay \$400.00 for the Tenant to make arrangements to complete the work.
53. The Landlord also testified that the Tenant was able to use the basement as the Tenant had lots of belongings in the basement including belongings in the utility room.
54. The Landlord also gave evidence that they had made arrangements to complete work to the staircase however, by this time the Tenants had given notice and requested that the work not be completed until after they vacate.
55. Statements from Tom Hill, the former tenant, and Devon Brown a contractor were tendered in evidence by the Landlord to which the Tenant's representative objected. The Tenant's representative submitted that it was not appropriate to accept the statements in evidence as there was no witness present, and the Tenant's representative did not have an opportunity to cross examine the individuals at the hearing.
56. As I explained at the hearing, the statements were served on the Tenant's representative and contained contact information for the individuals giving the statements. Nothing prevented the Tenants from requesting a summons for those individuals to be able to cross examine them and ultimately, the decision was not whether the statements should be accepted, but how much weight should given to the statements.
57. Succinctly, the statement from Tom Hill provides that he was the former tenant and had no issues at the rental unit, and the statement from Devon Brown notes the Tenants' belongings in the basement and that the stairs were not slippery.
58. Although little weight is given to the statements, they do serve to corroborate the Landlord's viva voce testimony that the former tenant had no issues, and the Tenants had belongings in the basement suggesting the ability to use the basement.
59. Based on the evidence and testimony of both parties I do not find there was an issue with the stairs such that it constituted a substantial interference with the Tenant's reasonable enjoyment and based on the use of the basement for storage, the Tenants were able to use the basement.

60. The Tenants did not enter in evidence any video or photographs depicting nails in the stairs, flooring on the stair tread being loose or otherwise dangerous, nor that the basement was not used nor could be used by the Tenants. When testifying in relation to the water valve issues, the Tenant acknowledged that they used the basement for storage and the basement "was full of our stuff" which is why there was concern for flooding in the basement.
61. There was no expert report tendered showing that the stairs did not conform to municipal or building code standards nor that anyone other than the Tenants deemed the stairs to be unsafe.
62. While the Tenants may have taken issue with the condition of the stairs, there is insufficient objective evidence before me to make a finding that the stairs had issues of such significance that it caused a substantial interference with the Tenant's reasonable enjoyment of the rental unit.

#### Water Valve

63. The Tenant testified in relation to a water valve issue that was reported to the Landlord in the fall of 2019 and again in January, 2020. This issue was noted on the Tenant's list of maintenance issues reported to the Landlord on November 2, 2019.
64. The Tenant's evidence is that the rental unit had an interior shutoff valve inside the drywall in the basement. The handle of the valve was stripped and would spin preventing it from being turned off. The Tenant testified that the only correct repair for the valve is to replace it.
65. The Tenant further testified that because of the broken valve, the exterior water tap would leak outside into the backyard necessitating the Tenants put a wastebasket underneath the tap to catch leaking water and the Tenants would have to empty the wastebasket. In the winter, the wastebasket would freeze full of water.
66. The Tenant testified that the Landlord brought in a handyman who was able to turn off the valve however, the problem was resolved for a month and then resumed. The Tenant's evidence is that they were fearful that the basement would floor and feared the valve would break.
67. The Tenant entered photographs in evidence showing the interior shutoff valve, the outside water tap with a wastebasket underneath, and wet concrete around the exterior tap. Additional photographs were tendered in evidence showing the wastebasket full of water and frozen water in the wastebasket. Another photograph shows a handyman looking at the faucet some time in January 2020.
68. The Landlord's evidence is that the issue with the water valve was reported to him and the Landlord asked the Tenant to close the inside valve which the Tenant replied he could not do.



69. The Landlord testified that the interior valve is still there and was never replaced. The issue was fixed on January 10, 2020 by replacing the exterior valve that was leaking but that the issue was immediately able to be resolved by closing the inside valve which was able to be done despite the Tenant's assertion that the interior valve would spin and not close.
70. I also find that this issue was reported to the Landlords in the list of maintenance issues given by the Tenants on November 2, 2019 and was resolved on or around January 10, 2020 and no evidence was lead to show that this was an unreasonable amount of time for the Landlord to have responded. There were no subsequent requests for maintenance by the Tenants in relation to the leaking tap and no suggestion to the Landlord that the issue was urgent requiring immediate attention.
71. The Tenant did not testify in relation to the effect of the leaking tap/valve and did not tender in evidence any utility bills showing an increase in cost to the Tenant. The Tenant's evidence of their concern for the basement flooding was insufficient to substantiate a finding that the Landlord substantially interfered with the Tenant's reasonable enjoyment by virtue of their response to the leaking tap.

#### Contractor Issues

72. The Tenant testified about issues with the Landlord's contractors LEA Appliances and STANZ Appliances. The Tenant's evidence is that the Landlord called or texted to advise the Tenants that LEA Appliances won't return to the rental unit because the Tenants were rude to the technician.
73. A telephone call of a recording was entered in evidence wherein the Tenant calls and speaks to an employee of LEA Appliances. The Tenant inquires with the employee about the Landlord advising that LEA Appliances would not come back to do work because of inappropriateness with their technician "Paul".
74. The employee responds to the Tenant's queries advising the Tenant that it was nothing to do with inappropriateness on the part of the Tenants and the issue is between the Tenant and the Landlord, further advising that the technician reported no issues with the Tenant.
75. The Tenant also testified to an issue with STANZ Appliances in relation to repair work for the Tenant's dishwasher.
76. The Tenant's evidence is that they initially missed a call from STANZ about arranging an appointment to look at the dishwasher which eventually devolved into STANZ physically threatening the Tenant. The incident was described as being a "really awful experience" and very uncomfortable for the Tenants.
77. The Tenant testified that the issue with STANZ was in relation to PPE because they refused to comply with the Tenant's requests. The Tenant gave evidence that the Landlord was advised of their request for STANZ to wear PPE and STANZ's refusal, to which the Landlord expressed surprise as STANZ had advised the Landlord they would wear PPE.

78. The Tenant's testimony is that they were confronted by STANZ in a telephone call asking why the Tenants said they would not wear PPE. The Tenant testified that his wife did not deserve the treatment she received from STANZ describing their conduct as misogynistic.
79. The Tenant supplied no objective evidence that the Landlord had made negative, inappropriate, or disparaging comments to LEA or STANZ appliances, nor that anything the Landlord said resulted in either of the companies refusing to return to complete work. The Tenant also did not tender evidence of their assertion that the Landlord told them that either company would not return to the rental unit.
80. The telephone call entered in evidence alludes to the fact that there were underlying issues between the Landlords and the Tenants however, the evidence does not support a finding that anything the Landlords did or said to these companies substantially interfered with the Tenants reasonable enjoyment, nor that this constituted harassment, threats, coercion, or interference with the Tenants.

#### Illegal Entry/Pictures in the Rental Unit

81. The Tenant gave evidence in relation to entries by the Landlord in generalities but did not testify as to who was alleged to have entered the rental unit, whether notice of entry was provided, nor that entry to the rental unit was not in accordance with the Act. The Tenant did testify to an incident in October, 2020, and another on January 10, however there was no objective evidence to substantiate these claims and the Tenant's testimony lacked sufficient detail upon which a finding can be made.
82. The sufficiency of the Tenant's evidence is that the Landlord would often send insufficient notice to enter sometimes at inappropriate hours, or that the purported entry was under "false pretenses". There was no testimony or evidence in relation to the Landlord or their Agents taking pictures in the rental unit.
83. Based on the lack of objective evidence and unspecific testimony in relation to unlawful entries by the Landlord I am unable to find that the Landlord or their agents illegally entered the Tenant's rental unit.

#### Notices of Termination by the Landlords

84. The Tenant began testifying in relation to an N4 notice which was not pleaded in the Tenant's application.
85. The Tenant was then asked about the two notices pleaded in their application being an N5 notice and an N13 notice. The Tenant confirmed the Landlord had given the notices testifying that he could not recall why the notices were given.
86. The Tenant then testified that the N13 notice was given in relation to a plan by the Landlord to put additional tenants in the basement of the rental unit, but the Tenants left the rental unit voluntarily and the Landlord did not renovate or rent the basement.

87. During testimony in relation to the notices, the N5 notice was put to the Landlord and in reviewing the notice I do not find there is anything outwardly objectionable about the Landlords N5 notice.
88. The Landlord also testified that the N5 and N13 notices were the subject of applications that were resolved by orders of the Board.
89. The Tenant did not testify with sufficient detail in relation to the notices received, why they were improper, or what effect receipt of the notices had on the Tenants. Accordingly, I do not find that service of the two notices alleged by the Landlord constitutes harassment, threats, coercion, or a substantial interference with the Tenants reasonable enjoyment.

### T6 Application

90. As explained below, the Tenants did not prove on a balance of probabilities that the Landlords were in breach of their maintenance obligations, nor that the rental unit or residential complex was not in a good state of repair, unfit for habitation, or that it did not conform to health, safety, housing or maintenance standards.
91. The Tenants' T6 application makes the following claims:
- a. Hot water rusty requiring water heater replacement;
  - b. New water heater is larger and Tenants have to pay;
  - c. Hot water regulators not working;
  - d. Oven not working.

### Hot Water Heater/ Hot Water Regulators

92. The Tenant testified that there were issues with the hot water heater beginning in October, 2019 and the hot water heater was starting to malfunction creating unsightly, rusty water.
93. The Tenant gave evidence that they called Reliance Home Comfort about the water heater and a replacement was necessary requiring consent from the Landlord to approve.
94. The Tenant testified that when presented with the prospect of a water heater replacement the Landlord was concerned about changing the water heater due to a lawsuit related to the type of piping used in the house which caused the Landlord to fear they would have to replace the entirety of the water pipes in the home.
95. A report was tendered in evidence from Reliance Home Comfort dated November 4, 2019, noting the rusty water and an error code from the hot water heater necessitating replacement.
96. The Tenant also gave evidence that the Landlord installed a larger water heater telling the Tenants it was the Landlord's intention to create 4-5 apartments in the basement and the

Tenants would have to share a door and garage with those individuals. There was no objective evidence to corroborate the Tenant's claims that the Landlord threatened to create units in the basement of the residential complex nor that there was an increased cost for the new water heater.

97. The Tenant further testified that because of the rust in the water it causes issues with the water regulators in the house resulting in drastic swings in water temperature. The Tenant's evidence is that two water regulators were affected and those two showers became unusable requiring the Tenants and their son to share the third floor bathroom. The Tenant's list of maintenance issues given to the Landlord on November 2, 2019 only makes mention of the water heater regulator in the master suite.
98. The Tenant's evidence is that the water regulators were replaced in January, 2020.
99. The Landlord gave evidence in relation to the water heater testifying that the issue was reported to him and he called Reliance Home Comfort but that the report dated October 9 does not make note that replacement is required. The Landlord also testified that while he was coordinating with Reliance, the Tenant was also calling Reliance causing confusion over scheduling resulting in delay.
100. The Landlord's evidence is that the first time replacement of the water heater was recommended was November 4, and the water heater was replaced on November 6.
101. The Landlord did not provide evidence or testimony in relation to the hot water regulators.
102. The list of issues provided by the Tenant in relation to maintenance is dated November 2, 2019 and notes the issue with the water heater.
103. The Tenant confirmed on cross examination that a report was made to the Landlord in relation to the water heater on October 9, 2019 and the Landlord replied the same day with an invoice from Reliance also dated October 9, 2019.
104. I find that that the Landlord was notified about the water heater on October 9, 2019, and a replacement was installed on November 6, 2019 less than a month later. Accordingly, I do not find that this is an unreasonable amount of time for the Landlord to have responded to the issue and no remedy is ordered on the basis of the hot water heater.
105. In relation to the water heater regulators, I find that there is insufficient evidence on which to find that the Landlord was in breach of their maintenance obligations. The evidence before me is that the Landlord was notified of an issue with the hot water regulator in the master shower stall on November 2, 2019, however, there is no objective evidence to corroborate the Tenant's claims in relation to hot water regulators.
106. There was no plumbing report or other objective information on which a finding can be based. There were no temperature readings supplied in relation to the temperature fluctuations and the Tenant's evidence is that the water heater regulators were replaced in January 2020.

107. The Tenant testified that the issue with the hot water regulators was caused by the rust from the water heater however, there was no objective proof of a nexus between the two issues. The Tenant did not give evidence that the response by the Landlord was unreasonable or unduly delayed.

### Oven

108. The Tenant testified that the appliances were reaching the end of their useful life and that the oven wouldn't heat higher than 140 degrees Fahrenheit which was reported to the Landlord in May, 2020.
109. The Tenant's evidence is that when the Landlord was told about the issue he did not offer to fix the oven instead questioning why the oven needed to go above 140 degrees.
110. The Tenant testified that rather than replacing the oven, the Landlord wanted to explore repair opportunities and had LEA appliances come to assess the stove. The Tenant further testified that the Landlord opted for repair instead of replacement and it would take three weeks to obtain the part for repair due to COVID-19.
111. On cross examination the Tenant was asked to confirm the date when the Landlord was notified about the issue with the stove and the Tenant testified the Landlord was notified on May 13, 2020, and the Landlord replied the same day. The evidence of the parties differed on whether a repair person attended on May 13, 2020.
112. The Tenant was also shown e-mails confirming that a repair person attended on May 17, 2020 and that on May 21, the Landlord confirmed that a new stove had been ordered.
113. The Tenant testified that they did not believe the Landlord's efforts to be sufficient and purchased a stove themselves which was delivered within a day but could not recall when the stove was purchased.
114. It was put to the Tenant on cross examination that they were notified the Landlord had ordered a stove and were informed on May 27, 2020 that delivery of the stove was scheduled for June 2, 2020.
115. The evidence before me is that the Landlord responded promptly to the Tenant's concerns on May 13, 2020 and that a repair person attended within 4 days of the Tenant's complaint, with a new stove being ordered 8 days after being reported. I also note that this is in May, 2020 when COVID-19 caused delay and logistical challenges in obtaining goods and receiving deliveries.
116. It is further noted that the Tenants do not claim the cost of the stove purchased by them, but an abatement of rent for being without a stove. As the Tenants replaced the stove themselves and could not remember when it was purchased, an abatement cannot be calculated as it is unclear how long the Tenants were without a stove.

Basement Stairs

117. The Tenant's representative asked that I also consider the issue under the Landlord's T6 application.
118. As previously found, the issue with the Tenant's stairs was not proven on a balance of probabilities to substantially interfere with the Tenant's reasonable enjoyment. Despite the legal test being different in relation to maintenance, I also do not find that the evidence of the Tenants is sufficient make a finding in relation to a breach of the Landlord's maintenance obligations.
119. As mentioned, the Tenant's evidence lacked objective support to show that the flooring was uneven, the stairs had nails rendering them unsafe, or that any of the issues alleged by the Tenant were present. The photographs show missing stair nosing, and that the Tenant resorted to self-help in removing the floor panels attached to the stairs.
120. Accordingly, based on my findings above the Tenant's T6 application is dismissed.

2024 ONLTB 61065 (CanLII)

**It is ordered that:**

1. The Tenant's T2 and T6 applications are dismissed.

**August 30, 2024**

**Date Issued**

\_\_\_\_\_  
Kyle McGraw

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.