



## Order under Section 31 Residential Tenancies Act, 2006

**Citation:** Donnelly v Cecchetto, 2024 ONLTB 60786

**Date:** 2024-08-22

**File Number:** LTB-T-065077-23

**In the matter of:** 1478 CLEMENTINE BLVD  
OTTAWA ON K1H8E9

Tenants

**Between:** Michael Donnelly  
Karen Boyer

**And**

Landlord

Victor Cecchetto

Michael Donnelly and Karen Boyer (the 'Tenants') applied for an order determining that Victor Cecchetto (the 'Landlord') altered the locking system on a door giving entry to the rental unit or residential complex without giving the Tenants replacement keys.

This application was heard by videoconference on July 17, 2024.

Only the Tenant, Michael Donnelly, attended the hearing.

As of 9:32 a.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:

1. As explained below, the Tenants proved the allegations contained in the application on a balance of probabilities. Therefore, the Landlord must pay to the Tenants \$2,481.58 by September 2, 2024.
2. The Tenants allege that the Landlord changed the locking system without providing them with keys, contrary to s. 29(5) of the *Residential Tenancies Act* (the 'Act'), which states:

**29** (1) A tenant or former tenant of a rental unit may apply to the Board for any of the following orders:

5. An order determining that the landlord, superintendent or agent of the landlord has altered the locking system on a door giving entry to the rental unit or the residential complex or caused the locking system to be altered during the tenant's occupancy of the rental unit without giving the tenant replacement keys.

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3. The Tenant testified that the Tenants signed a tenancy agreement with the Landlord on July 20, 2023, with a move in date of August 1, 2023. A copy of the Tenants' lease was placed into evidence. The lease denotes the names of the Landlord and both Tenants, was signed by all parties.
4. The Tenant gave the Landlord the first months' rent and a last months' rent deposit. The Tenants were given keys to the rental unit so they could clean and paint the rental unit before they moved in. The Tenant said that he and his partner wanted everything to be clean because they would be providing care to their newborn grandson when they moved in.
5. While the Tenants were in the home to clean and paint, they noticed mold in the unit. The Tenant put into evidence pictures of the basement which appears to be wet or damp over a significant portion of the floor. Because the Tenant was concerned about mold, he told the Landlord he would be calling a City Health Inspector to attend with him, on the August 1, 2023, so that he could ensure the rental unit would be safe for the baby.
6. When the Tenant and his family attended the rental unit on August 1, 2023, to move in, the locks to the door were changed. The Landlord attended in person and told the Tenants that they would not be allowed to move in and told the Health Inspector that they would not be provided access to the rental unit. The Landlord also refused to return any rent funds paid by the Tenant and refused to reimburse the Tenant for the cost of the paint. The Tenants were forced to find other accommodations and put the family's belongings into storage until they found another rental unit.
7. The Tenants claim:
  - a rent abatement of \$1,900.00;
  - the cost of the paint \$223.58; and,
  - the cost of storage, \$310.00.
8. The Tenant submitted receipts for the cost of the paint and the storage. I note that the storage costs on the receipt are higher than what was claimed on the application. However, without evidence that the Landlord was provided with service of an amended claim, the Tenant is limited to the amount claimed in the application. As the Tenant was unable to move in, I find an abatement is warranted.
9. Also submitted into evidence were copies of text messages between the parties. On August 1, 2023, the Tenant told the Landlord he would be pursuing a claim at the LTB. Further, the Tenant told the Landlord that he contacted the Rental Housing Enforcement Unit ('RHEU') and filed a complaint. The Tenants' application provides a file number for the RHEU complaint.
10. As the Landlord failed to attend the hearing, I did not have an opportunity to hear the Landlord's evidence. Based on the oral testimony of the Tenant, and the text message which corroborates the Tenant's evidence, I find that the Landlord did alter the locking system on a door giving entry to the rental unit or residential complex without giving the Tenants replacement keys, contrary to s.29(5) of the Act.

11. Therefore, I find that the Landlord contravened s. 29(5) of the Act. The Landlord shall pay to the Tenants \$2,433.58 which is the amount sought by the Tenants in the claim.
12. The Tenants also request that the Landlord pay a fine to the Board.
13. When considering whether a Board fine is appropriate, I must evaluate if the Landlord has shown a blatant disregard for the Act. In this situation, I find that a fine is appropriate. I say this because the Landlord locked out the Tenants because the Tenants wished to assert their legal rights. They wanted to be sure that the rental unit was safe for a very young baby. I find that the Landlord, by locking the Tenants out, attempted to sidestep s. 20 of the Act which mandates that the rental unit must be maintained in a state fit for habitation, and his behaviour was egregious. He left a family stranded on the day they were scheduled to move in, one of whom was just weeks old.
14. When considering the amount of the fine, I must consider the following factors (See Interpretation Guideline 16):
  - the nature and severity of the breach;
  - the effect of the breach on the tenant; and
  - any other relevant factors.
15. In the matter before me, I find that a Board fine of \$750.00 is appropriate. I say this because the Tenants were locked out for no other reason than wanting to ensure that the rental unit they had rented was safe and habitable because they would be providing care to a newborn. Changing locks, in my view, carries serious implications for tenants by leaving them stranded. I believe it is appropriate to fine the Landlord to discourage the Landlord from behaving in a similar fashion to future Tenants.

**It is ordered that:**

1. The total amount the Landlord shall pay to the Tenants is \$ 2,481.58. This amount represents:
  - \$1,900.00 for a rent abatement;
  - \$223.58 for the Tenant's reasonable out of pocket expenses the Tenants have incurred;
  - \$310.00 for storage or other like expenses that the Tenants have incurred; and,
  - \$48.00 for the cost of filing the application.
2. The Landlord shall pay the Tenants the full amount owing by September 2, 2024.
3. If the Landlord does not pay the Tenants the full amount owing by September 2, 2024, the Landlord will owe interest. This will be simple interest calculated from September 3, 2024, at 7.00% annually on the balance outstanding.

4. The Landlord shall pay to the Landlord and Tenant Board an administrative fine in the amount of \$750.00 by September 2, 2024.

**August 22, 2024**

**Date Issued**

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Jane Dean

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.