



**Order under Section 31  
Residential Tenancies Act, 2006**

**Citation:** ESKANDARI v MAGEE, 2024 ONLTB 9344

**Date:** 2024-02-06

**File Number:** LTB-T-053203-22

**In the matter of:** MAIN, 47 DAVIS ROAD  
AURORA ON L4G2B4

Tenant

**Between:** REZA ESKANDARI  
MARJAN SADRIZADEH

**And**

Landlord

NATASHA MAGEE

REZA ESKANDARI and MARJAN SADRIZADEH (the 'Tenant') applied for an order determining that NATASHA MAGEE (the 'Landlord'):

- 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.
- withheld or interfered with their vital services or care services and meals in a care home.

This application was heard by videoconference on January 11, 2024.

The Landlord, the Landlord's Legal Representative, Chantelle Campbell, and the Tenant, Reza Eskandari, attended the hearing.

**Determinations:**

1. As explained below, the Tenant, Reza Eskandari (“RE”) proved the allegations contained in the application on a balance of probabilities. Therefore, the Landlord must compensate the Tenants for their increased expenses and must pay a fine to the Board.

Improper termination

2. This tenancy began July 1, 2021 and the parties entered a 1-year lease. The parties did not enter an agreement to renew the lease terms. In those circumstances, the tenancy did not terminate but should have automatically become a month-to-month tenancy effective June 30, 2022, in accordance with section 38(1) of the *Residential Tenancies Act, 2006* (“Act”):

**38** (1) If a tenancy agreement for a fixed term ends and has not been renewed or terminated, the landlord and tenant shall be deemed to have renewed it as a monthly tenancy agreement containing the same terms and conditions that are in the expired tenancy agreement and subject to any increases in rent charged in accordance with this Act. .

3. It is undisputed that on April 2, 2022 at 8:53PM, the Landlord sent an e-mail to the Tenants regarding terminating the tenancy.

Dear Reza Eskandari & Marjan Sadrizadeh,

This letter is to inform you that the Owners will not be renewing your lease for Main – 47 Davis Rd Aurora, ON L4G 2B4 due to rent and utilities not being paid in full and on time as required by the lease agreement. Per our agreement, this letter will serve as your official 90 days notice of non-renewal.

Henceforth, your lease ends on July 1, 2022 and you must vacate the premises and return all keys by this date. We will arrange a final walk-through/inspection prior to you moving out.

Please review and sign the attached N11 form.

Kind regards,

Natasha MaGee

4. The Tenants disagreed with the claims of late rent and utility payments. However, the Tenants were under the mistaken belief that the Landlord had the right to terminate their tenancy unilaterally and therefore, agreed to end the tenancy May 31, 2022 after they found suitable housing.
5. The Landlord testified they deemed the Tenants to be “high maintenance tenants” due to unreasonable requests made. The Landlord did not provide any evidence of these unreasonable requests. A Landlord cannot circumvent the Act to terminate a tenancy simply because they do not like the Tenants or find them to be high maintenance.
6. Section 37(1) of the Act states:

A tenancy may be terminated only in accordance with this Act.

7. The Landlord knew or ought to have known she could not unilaterally terminate the tenancy and require the Tenants to sign an N11 form. The Landlord did not have any Board order to terminate the tenancy, and the parties did not agree to terminate the tenancy *prior* to her April 2, 2022 e-mail which purported to unilaterally terminate the tenancy.
8. It is undisputed that once the Tenants agreed to vacate, the Landlord requested the Tenants sign a mutual release, but the Tenants refused.
9. The Landlord relied on the N11 submitted by the Tenants, showing the Tenants signed the agreement first, to establish the Tenants moved on their volition. However, I find that the Tenants would not have submitted an N11 and terminated the tenancy had the Landlord not falsely advised the Tenants that the Landlord was entitled unilaterally terminate the tenancy and evict the Tenants.
10. Therefore, I find that the Landlord coerced and interfered with the Tenant.

Did the Landlord harass the Tenants?

11. Both parties submitted text message and e-mail threads throughout the tenancy. RE testified he felt the Landlord always had an “attitude” but could not provide any documentary evidence where the Landlord was harassing the Tenants.
12. Therefore, without evidence to establish clear harassment, I do not find that the Landlord harassed the Tenants.

Heat in the unit – Vital Services

13. On November 24, 2021, RE noticed the unit temperature was cooler than usual. RE checked the thermostat for the heat and it was not showing the temperature, the screen was blank. RE reported this to the Landlord and a few hours later, the problem seemed to fix itself. In a text message to the Landlord on November 24, 2021 at 6:56PM, RE says, “Now, the heat is working and the temperature is on 74. No issues for now.”
14. On November 26, 2021 at 6:41PM RE informed the Landlord by text message that the heat was not working and the temperature of the unit was 69 degrees. The Landlord immediately responded with instructions to set the schedule to their liking. RE replied the thermostat was adjusted and the heat was working again.
15. RE submitted a text message thread between him and the Landlord regarding the heat in the unit on December 14, 2021:

- RE: Hi Natasha, The heat has not been working since last night and it is freezing cold. Please look into this first thing today. Thank you. Reza.
- Landlord: Hi Reza, what is the temperature on the thermostat?
- RE: I have set it on 75 and put it in hold position as usual, but the home temperature is 69 and the fan has not come on at all since last night.

16. The Landlord testified, and RE did not dispute, that the tenants occupying the unit prior to RE had the thermostat set to a schedule throughout the week. The temperature would increase and decrease to coincide with when the tenants were in the unit and when they were away.

17. RE was able to set the schedule on the thermostat to suit their needs and did not have any issue with the heat since December 15, 2021.

18. RE testified the lowest temperature reported was 69 degrees. A rental unit must be kept at a minimum temperature of 68 degrees Fahrenheit or 20 degrees Celsius from September 1 to June 15. The temperature in the unit never went below 69 degrees and the reason for the furnace turning off was user-error.

19. Therefore, I find that the Landlord did not withhold or interfere with the Tenants' vital services.

#### Maintenance Concerns

20. While the Tenant's have not filed a T6 maintenance application, I accepted the Tenants evidence about disrepair issues to determine if the Landlord interfered with the Tenant's reasonable enjoyment by not responding to repair issues in a timely manner.

#### Microwave

21. On November 22, 2021 RE emailed the Landlord stating the microwave was not working. On November 24, 2021 an agent for the Landlord attended the unit and found the microwave to be in working condition. RE testified that sometimes the power would disconnect from the microwave, but it happened irregularly so they couldn't recreate the problem when the agent was there. It is undisputed the Tenants never complained about the microwave not working again.

#### Dishwasher

22. On October 16, 2021, RE complained to the Landlord regarding the dishwasher not working. Specifically, the door would not close. On October 18, 2021, an agent for the

Landlord attended the unit, found the bottom rack of the dishwasher was backwards. After switching the rack to the correct position, the door closed.

23. It is undisputed between the parties that anytime the Tenants complained about maintenance, the Landlord or their agent would attend the unit within a couple of days to have the issue addressed. It is also undisputed that the Landlord was quick to reply to any of the Tenant's e-mails or texts.
24. Therefore, I find that the Landlord did not substantially interfere with the reasonable enjoyment of the rental unit or residential complex by the Tenants by failing to do repairs in a reasonable and timely manner.

### Remedies

25. The next issue before me is the quantum of remedies to award the Tenants. The Tenants are requesting in the application: rent differential, an administrative fine; and out of pocket expenses for moving and storage.
26. I am persuaded the Tenants vacated the rental unit as a result the Landlord's April 2, 2022 e-mail wherein she advises the Tenants they need to leave by July 1, 2022. If they hadn't received this e-mail demanding an illegal eviction, the Tenants would have remained in the unit.
27. The Tenants found a similar unit in a similar neighbourhood. When the Tenants vacated the rental unit, their monthly rent was \$2,400.00. The Tenants rent at their new apartment is \$2,650.00 leaving a \$250.00 per month difference.
28. The Tenants incurred an increased rent of \$3,000.00 for a one-year period after the Tenants vacated and the Landlord will be ordered to compensate the Tenants for this expense.
29. The application originally claimed \$450.00 for out-of-pocket moving, storage and other like expenses. At the hearing, the Tenants provided a receipt from U-Haul on the day the Tenants vacated the unit, June 3, 2022 totaling \$148.85. Therefore, I find the Landlord should be ordered to pay the moving expenses of the Tenants.
30. The Tenants are also seeking an undetermined amount of fine against the Landlord. Pursuant to the Board's Interpretation Guideline 16:

An administrative fine is a remedy to be used by the Board to encourage compliance with the Act, and to deter landlords from engaging in similar activity in the future. This remedy is not normally imposed unless a landlord has shown a blatant disregard for the RTA and other remedies will not provide adequate deterrence and compliance.

31. Administrative fines are generally ordered where there is egregious conduct by a landlord. The Landlord still owns the rental unit and continues to rent to other tenants. The Landlord knew or ought to have known she cannot unilaterally terminate a tenancy.
32. There was no credible evidence before me that the Landlord had engaged in what amounts to similar actions previously. However, I find the Landlord did attempt to circumvent the Act. I find an administrative fine would be useful in deterring them from considering it again and therefore, I find the Landlord should be ordered to pay a fine to the Board of \$250.00.
33. Finally, The Tenants incurred a cost of \$53.00 to file this application and they are entitled to recover that cost as the Tenant was successful.

**It is ordered that:**

1. The total amount the Landlord shall pay the Tenant is \$3,201.85. This amount represents:
  - \$3,000.00 for increased rent the Tenants have incurred from June 2022 to May 2023.
  - \$148.85 for all of the moving, storage or other like expenses that the Tenants have incurred.
  - \$53.00 for the cost of filing the application.
2. The Landlord shall pay the Tenant the full amount owing by February 17, 2024.
3. If the Landlord does not pay the Tenant the full amount owing by February 17, 2024, the Landlord will owe interest. This will be simple interest calculated from February 18, 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 \$250.00 by February 17, 2024.

**February 6, 2024**  
**Date Issued**

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Elena Jacob  
Member, Landlord and Tenant Board

Toronto ON M7A 2G6

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.

Payment of the fine must be made to the Board by the deadline set out above. The fine can be paid by certified cheque, bank draft or money order made payable to the Minister of Finance. If paying in person, the debt can also be paid by cash, credit card or debit card.