



Order under Subsection 30 & 31 Residential Tenancies Act, 2006

Citation: Boyes v CLV Group Inc, 2024 ONLTB 5828

Date: 2024-01-16

File Number: LTB-T-073672-22

In the matter of: 7, 15 Rockway Crescent
Nepean Ontario K2G0M3

Between: Heather Boyes Tenant

And

CLV Group Inc Landlord
Interrent Reit

Heather Boyes (the 'Tenant') applied for an order determining that CLV Group Inc and Interrent Reit (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

Heather Boyes (the 'Tenant') applied for an order determining that CLV Group Inc and Interrent Reit (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.

This application was heard by videoconference over multiple dates based on accommodation as requested by the Tenant, on March 23, 2022, November 28, 2022, May 18, 2023 and concluded on June 9, 2023.

As per agreement, the parties submitted their written closing submissions on June 16, 2023.

The following parties attended the hearing at different points throughout the time period as outlined: the Landlord's Legal Representative Daniel Abraham, Chad Loikets (CH), the Landlord's witness Property Manager, William McLachlin the Landlord's witness Maintenance Manager, the Tenant's Legal Representative Amri Murray, George P. White (GW), Mycologist, the Tenants witness and the Tenant attended the hearing.

Determinations:Preliminary Issues

1. The Landlord's Legal Representative raised the preliminary issue asserting that since the Tenant's application was filed on June 3, 2021 Board's jurisdiction in this case runs from June 3, 2020 to June 3, 2021 and forward and not as submitted by the Tenant's Legal Representative where submitted if there was any recurring issue that occurred even one day inside the one year period from June 3, 2021 then the Board had jurisdiction to award a remedy for that period and prior.
2. Subsection 29(2) of the *Residential Tenancies Act* sets out that "No application may be made under subsection (1) more than one year after the day the alleged conduct giving rise to the application occurred."
3. In the case before me, the original Tenant's T2/T6 applications were received by the Board on June 4, 2021.
4. Subsection 29(2) of the Act prohibits the Tenant from raising issues with respect to conduct or incidents that occurred more than one year prior to the filing date.
5. Since this application was filed on June 4, 2021, I may only consider allegations or alleged conduct which occurred from June 3, 2020 onward.
6. While subsection 29(2) sets out a one-year limitation period for bringing an application under subsection 29(1). If a single event or one occasion of an ongoing event occur within the one year limitation period, the application may proceed to be heard, where as the subsection does not contain any limitation on the remedy available
7. As explained in Guideline 5 the recent decision that considered the proper application of subsection 29 (2) was that of the Divisional Court in *Toronto Community Housing Corp. v. Vlahovich*, [2010] O.J. No. 1463. In *Vlahovich*, the Court stated: In light of the one year limitation period in s. 29 (2), the Board can only make a determination that a landlord has breached an obligation under s. 20 (1) during the one year period before the making of the application. Accordingly, the remedy that may be granted may only be granted in relation to breaches during that one year period.
8. The Landlord also raised the issue of the application lacking specific particulars per *Ball v. Metro Capital 2002 O.J. No. 5931*, so as to allow the Landlord to correctly reflect on their records and adequately address the Tenant's issues as set out in the combined application filing.
9. In review of the application, while not bound by Guideline 5 I am not prepared to deviate from the most recent Divisional Court interpretation of the one year limitation period in s. 29 (2) and in addressing the issue of lacking particulars, the application in conjunction with Schedule A contained sufficient detail to proceed to hearing of the merits of the "amended" combined T2/T6 application.

Amendments

10. On March 6, 2022 the Tenant's Legal Representative requested to amend the T2/T6 application. As the amendment request was received prior to the hearing, the request is granted.

Background

11. The Tenant moved into the rental unit on November 20, 2015, moved out on March 15, 2021 by providing the Landlord a notice of early termination and acceptance of the same. The lawful rent at the time of termination of tenancy was \$1,398.30.
12. The Tenant filed a T2 Application about Tenants rights and a T6 Application about Maintenance with the Board on June 4, 2021.
13. The Tenant suffers from allergies and sensitivities to scented products, throughout the tenancy, the Tenant disclosed this information to the Landlord.

T6 Application about Maintenance and Repairs

14. The Tenant's Application about Maintenance (T6 application), alleges a breach of section 20(1) and section 161 (f) obligations.
15. Pursuant to subsection 20(1) of the Act, a landlord is responsible for:

providing and maintaining a residential complex, including the rental units in it, in a good state of repair and fit for habitation and for complying with health, safety, housing and maintenance standards.
16. Subsection 161(f) of the Act applies of Part X of the Act as pertaining to Mobile Home Parks and Land Lease Communities, as such is not applicable in the application before the Board as the residential unit is a townhome, one of a block of 10.
17. The allegations are as follow:
 - Rodents & maggots are found in the rental unit
 - Odours/ musty smell in the rental unit
 - Mold present in the rental unit
 - Water leaks – roof- cracks in walls - damaged ceiling-floors (unit and common areas)

Rodents & Maggots

18. The Tenant submitted that she had noted the presence of rodents as soon as she moved in 2015, that severity and activity of rodents increased from December 2019 to June 2020. She reported to the Landlord what she described as consistent scratching and movement

inside most walls and the ceilings of the unit, especially above the stove and kitchen cabinets.

19. The Landlord responded by installing poison pucks within the unit above the Tenant's stove in February 2020, the Tenant submitted that she did not want live traps in the rental unit and that on May 27, 2020 "Regionex" professional exterminators became involved.
20. The Landlord confirmed that Regionex attended on February 12, 2020 and May 27, 2020 and indicated that they treated for mice, the report on record noted there was low activity and that no follow-up treatment was required at that time.
21. The Landlord witness (CL) testified that the Landlord continued to communicate with the Tenant to address the issue as directed by Regionex while also accommodating the Tenant's requests in respect of entries into the unit and the type of extermination methods she was agreeable to. As this issue continued through the period that encompassed the Emergency Lockdown from the Ontario government in relation to the COVID-19 pandemic, the ability to have contractors attend at the residential complex was a factor in the Landlord's ability to respond.
22. The Tenant submitted that once bait traps were placed outside of her unit, over the next few months while there was still heard movement in the walls, the frequency of noise diminished.
23. On the issue of maggots, the Tenant submitted that on one date of June 19, 2020 she found approximately 7 of these in her unit, disposed of them and reported them to the Landlord. There were no further reports of maggots thereafter.
24. (CL) testified that as Regionex report from May 27, 2020 had no visible mice activity, that the last extermination efforts proved to be successful as the Landlord did not receive any further complaints from the Tenant after June, 2020. In his view this matter had been resolved.
25. The same is confirmed in the Tenants closing submissions where it is noted that "the issue persisted from November 2015 until June 2020."
26. Since this application was filed on June 4, 2021, I may only consider allegations which occurred from June 3, 2020 onward. Based on the evidence before the Board, there is no doubt that there were rodent issues in the residential unit and complex however, it is apparent that the Landlord addressed and continued to address the Tenants request in this regard ongoing. This is evidenced through the engagement of progressive extermination measures, even going as far as cutting out holes, placing baits and repairing them. These are more extensive measures than normally entertained. I am also mindful that the given the Tenant's sensitivities to various chemical and other substances she was provided an ability to provide direction on what treatment could be applied. While the measures may have resulted in less effective outcomes, there was a balancing act between recognizing her level of tolerance based

on health concerns and the Landlord's ability to deploy perhaps more effective and faster acting pest treatment measures.

27. Taken as a whole, based on the evidence before the Board, on a balance of probabilities the Landlord responded to the Tenant's request in a timely manner, and there is agreement between the parties that this issue was resolved sometime in June 2020.

Odours & Mold

28. The Tenant submitted that there was a continuous smell in her rental unit described as garbage, rotting, smoke, all told unpleasant odours and that she reported the issue in April 2020. That is became obvious to her that what she was smelling was mold as the odour became more pronounced after the rain, that there she thought there was water penetration entering from the roof.
29. The Tenant submitted that the Landlord was aware the roof needed replacement since February 2020 and did not action the repair or replacement.
30. The Tenant first noticed signs of what is referred to as black mold in April of 2020, the first area was at the top of the space between the kitchen cabinets to the left of the kitchen sink and the second area was in the guest room closet where there was visible water penetration. The Tenant further advised the Landlord that there was white mold in the basement of the unit.
31. It was submitted that sometime in April 2020, the Landlord attempted to resolve the issue by spraying concrobium as a spot treatment in particular areas where mold was visible and painted over the treated area, where applicable. Based on the email change submitted into the Board's record, the Tenant confirms that that she is in agreement in applying the substance for treatment in March 2021.
32. The (CH) submitted that the Landlord, investigated and applied concrobium on 3-4 occasions even though they did not feel there was the presence of mold, this was done to accommodate the Tenant.
33. Photos as evidenced of the rental unit basement, show what appears to be white mold on the exterior of the supporting floor joists, there are signs of prior water penetration on the wood from what appears to be a leaky toilette and spray foam insulation as a repair agent. There is also signs of cracked foundation walls, one in particular which also shows signs of spray foam or other repair agent and could have also been a point of prior water penetration into the basement.
34. The Tenant submitted that odours continued to get worse, and that on June 19, 2020 she reminded the Landlord that she had been awaiting an air quality test, along with a mold test which had been discussed with the Landlord previously.
35. On July 9, 2020, the Landlord agreed that there was indeed a "musty smell" within

the unit and on July 14, 2020 an air quality test was done.

36. The report as rendered of air sampling conducted by Lakeside Green Environmental Consulting dated July 22, 2020 was rendered to the Landlord. The report describes air sampling from outside of the unit and from each of the rental unit levels, basement, main and upper.
37. The report notes, "There was some visible growth of mycelia or hyphae on the floor joists visible in the basement of the unit. Reportedly some mold growth has been addressed previously, both in the basement and in the kitchen of the unit. The tenant indicated she has severe allergies to odours and some consumer products and referred to the allergies as "environmental sensitivity. Tolerable levels of indoor mold or pollen are dependent upon the person living or working in the environment. Individuals with compromised pulmonary systems may be affected more acutely than other individuals. There is currently no Canadian Legislation or strict guideline for determining normal levels of mold or pollen in air."
38. The results are summarized as follow: "samples collected from unit 7-15 Rockway Crescent, Ottawa indicate genera not related to outdoor air are within a range considered low for indoor air quality. The results for the main floor and second floor indicate few genera were detected outside of those genera related to outdoor air. The results for the air sample collected in the basement indicate a slightly raised level for Aspergillus/Penicillium-like spores. This is very likely related to the number of cardboard boxes stored on the concrete floor of the basement."
39. "The odour within the unit reported by the tenant is not likely to be related to mold growth. An ozone treatment of the premises may be beneficial in addressing the odour of concern. Continuation and completion of cleaning the floor joist in the basement is recommended to prevent further growth of what appears to be mycelia or hyphae."
40. A copy of the report was not provided to the Tenant, even after many requests. The Tenant testified that she experienced symptoms of pneumonia, sleeping, cognitive impairment, elevated heart rate and sore throat.
41. The Landlord's witness (CL) confirmed that the report was not shared with the Tenant because they were concerned that the "normal" spores count would upset her and that there were no further complaints of mold until beginning of 2021.
42. The Tenant submitted that once she became aware of the work to commence on the replacement of the roof, on February 13, 2021 this was the night she spent in the rental unit and moved in with her boyfriend.
43. The Tenant returned to the rental unit on Sunday February 28, 2021 found a wet wall and called the landlord's emergency line, she was advised that the Landlord had nothing to dry the wall and that they had no extra fans.
44. Photos as entered into the Board's record demonstrate water penetration on multiple areas of the main floor ceiling. The Tenant took it upon herself to protect some of her wooden

furniture by covering them up with plastic wrap. Photos show water marking in form of a water droplet on the floor and on a piece of wooden furniture.

45. Property standards officers from the City of Ottawa attended the unit for an inspection and issued an order dated March 1, 2021. With a moisture metre and found that the walls were still wet, the drywall had not been replaced, and new areas of damage to the floor on the main level were discovered.
46. This inspection followed a notice issued to the Landlord on March 1, 2021. Deficiencies from the By-Law Order included the following:
....
 - a) The interior floors, ceilings and walls shall be kept free from dampness....Signs of leak, likely from the roof. Required to determine the source of the water infiltration and remedy appropriately.
 - b) Water damage on ceilings and walls. Replace any damage on ceiling and walls , replace any damaged drywall, patch and repaint.
 - c) Water damage on floors. Repair or replace where damaged.
47. (CL) testified that the Landlord became aware of the issue on Sunday February 28, 2021 and that they arrived at the unit on Tuesday March 2, 2021, cut holes in the ceiling, placed fans and dehumidifiers. He noted that they observed what looked like water on the Tenant's table.
48. On March 5, 2021 (CL) sent the Tenant an email advising that the work on her unit is now complete. That the roof work is also complete, that the maintenance team would be returning to ensure there are no paint fumes and that "all necessary steps were taken to ensure no mold."
49. The Tenant was not convinced that proper repairs were conducted and hired the services of George White (GW) from *Residential and Industrial Fungal Detection Service Inc.* (GW) testified that he attended at the rental unit on March 8, 2021 and found multiple locations on both upper floors that were still wet. That there was significant risks of mold growth in the rental unit and that it was his opinion that the unit was not suitable for occupancy until these areas were properly remediated.
50. The report concluded that during roof repairs between February 20 and 28, 2021, "the unit experienced a significant intrusion of water in association with rain. Feb. 23 and 24 are 2 possible dates when there was rain or snow and temperatures were at or above 0° C."
51. "Photographs taken by the tenant show the extent of the original infiltration and staining on the ceilings and areas where the hardwood flooring was tented, cupped or visibly altered." Photos of the same were entered into the Board's record. "The infiltrated water was present in the unit for 8 to 13 days prior to this inspection. The possibility that the roof has been fixed properly has not been verified. Heavy rain did occur on or after February 28 and could continue to be entering."
52. "Residual moisture sufficient to be sustaining indoor mold growth was found in at least 13 locations in Unit 7 with "wet" reading above 170 on an MMS Protimeter Moisture Meter

scale of 0-1000 where 170 is at risk to mold growth and above 200 is sufficient to sustain mold growth. Some readings reached above 600 in select locations.”

53. The report goes on to describe the findings throughout the rental unit, I now refer to the report conclusions which note:
- “There continues to be wet areas of drywall and flooring on both levels in the unit. There has been sufficient time for mold to grow and mold will continue to grow as long as sufficient moisture is present.
 - This unit is a long way from becoming acceptable living space suited for occupancy by any individual. Mold sensitive people are at even higher risks to exposures in this situation.
 - Areas that were exposed to substantial moisture have not been properly remediated and now need to be addressed as though they are moldy.
 - On the basis of observations and test results to date, there were no reasons to conclude that occupant contents have been affected. The inspection was limited and if any damage to the contents has occurred, it may become apparent in future inspections.”
54. Of the 7 recommendations provided, of key importance are recommendations #1 & #2 where it states:
- Do not re-occupy the unit until the remediation is properly completed, tested and cleared.
 - Insist that the remediation be done by a properly trained and equipped mold remediation company familiar with containment and the use of negative air to limit the spread of mold spore contamination.
55. Following the inspection of the unit on March 8, 2021 by (GW) a Mycologist, the unit had been declared uninhabitable. The Tenant alleges that she was forced to permanently vacate the unit and had to place most of her belongings in storage.

Notice of Termination of Tenancy

56. On March 15, 2021 the Tenant provided the notice of immediate termination of tenancy in which she notes that the rental unit is not suitable for occupancy based on the (GW) report and as sent to the Landlord on March 10, 2021.
57. In her request for early termination the Tenant lists out costs she wishes to recover from the Landlord as follow: rent paid for March 2021, return of deposit, the payment of her hydro bill for March 2021, the cost of the report to (GW), the cost of packing, moving and disposal of items from the basement that have been damaged. She also sought two (2) months of storage of her personal belongings while the unit is being repaired, following which a report from (GW) could confirm that the unit is safe to reoccupy.
58. On March 15, 2021, (CL) accepts the Tenants notice of termination of tenancy in which he notes, “I just want to reiterate we have done all the work required to ensure your unit was safe prior to you giving notice....” The work that is referred to is the application of

concrobium under the floors, drying and reinstallation of similar flooring from another apartment, and “taking steps with the ceiling, the unit is finished up.” He continues, “we have taken all the proper steps to ensure no molding... we offered you accommodation while you were out of the unit and you refused.”

59. (CL) testified that the Tenant was offered an alternative rental unit in the Landlord’s “LIV” apartments and that the Tenant refused.
60. On March 16, 2021 the Tenant writes another message to (CL) expressing disappointment that the Landlord had chosen to ignore the recommendations of (GW) and City of Ottawa Property Standards. She notes that the unit is still wet and therefore not safe for anyone. That the area of flooring as mentioned to be already repaired was still wet as was the wall and ceiling and that an area that was painted over on the ceiling without removing the damaged area was spot bleeding, exposing what appeared as a quick fix.
61. Based on the evidence before the Board, I find that the Landlord failed to meet the Landlord's obligations under subsection 20(1) of the Act to repair the rental unit and failed to comply with maintenance standards.
62. In *Onyskiw v. CJM Property Management Ltd.*, 2016 ONCA 477, the Court of Appeal held that the LTB should take a contextual approach and consider the entirety of the factual situation in determining whether there was a breach of the landlord's maintenance obligations, including whether the landlord responded to the maintenance issue reasonably in the circumstances. The court rejected the submission that a landlord is automatically in breach of its maintenance obligation as soon as an interruption in service occurs.
63. In this case, while the Landlord became aware of mold remedial activities to be undertaken as recommended by Lakeside Green Environmental Consulting dated July 22, 2020, the Landlord did act on the recommendations even though the report noted that “there was some visible growth of mycelia or hyphae on the floor joists visible in the basement of the unit” and while being advised that “tolerable levels of indoor mold or pollen are dependent upon the person living or working in the environment. Individuals with compromised pulmonary systems may be affected more acutely than other individuals,” as was the case of the Tenant.
64. It is also concerning that while the Landlord acted on the Tenant’s request to conduct the air sampling, the decision was made to withhold the report.
65. Then the water penetration occurred in February 28, 2021, while the Tenant reaches out the Landlord immediately it appears that the Landlord’s initial response was not appropriate based on the circumstances the Tenant was reporting on.
66. On March 5, 2021 in an email of (CL) to the Tenant the Landlord’s asserts that they did everything that was required, and that the Tenant could return to the rental unit. I am not persuaded by the Landlord’s evidence. While the Landlord suggested work was being done, I am not satisfied that the mold remediation efforts were successful while being made aware of their responsibilities in the City of Ottawa Property Standards order dated March 1, 2021, and of the Tenant’s sensitivities.

67. The report from the mold assessment of (GW) of March 8, 2021 that was done after the work confirms that the house was still not safe to occupy and the mold levels were still elevated throughout the home, so much so that he stated that the house was not habitable at that time. This means that, despite what may have been the Landlord's best efforts, the Landlord's actions to remove the mold from the rental unit were not effective.
68. While the Landlord was quite adamant at the hearing that they had done everything that was required, the mold was gone and the house was safe to live in there is no evidence before me to confirm that the Landlord made any steps towards professional remediation efforts. Specifically to remove the mold in July 2020 or March 2021, by not taking these measures, the Landlord impacted the Tenant's enjoyment of the unit and caused adverse health effects that in turn impacted the Tenant's quality of life.
69. For the reasons already stated, I find that the Landlord failed to meet the Landlord's obligations under subsection 20(1) of the Act to repair and the rental unit and he failed to comply with health, safety, housing, and maintenance standards. This means that a remedy must flow to the Tenant.

Water leaks – roof- cracks in walls - damaged ceiling-floors (unit and common areas)

70. Throughout the tenancy up to November 2020, the Tenant had advised the Landlord of water damage and leaks in the common hallway, and dry rot issues in the unit. The Landlord attempted to repair the dry rot by covering it up with a temporary seal. Evidence of previous water damage in the unit was seen in cracks in the walls and throughout the basement ceiling. Photos of the same were entered into the Board's record, as noted in the earlier portions of the basement findings.
71. The alleges that her reports of water leakage to the Landlord were often dismissed as being minor drips that will self-resolve. The Landlord eventually repaired the visible water leak damage in the common hallway in November 2020.
72. (CL) testified that the Landlord was aware of previous leaks in the hallway as this was from toilettes overflowing which are located above the hallway ceiling, that this was rectified sometime in the past.
73. Since this application was filed on June 4, 2021, I may only consider allegations which occurred from June 3, 2020 onward. While it is unclear when the Landlord first became aware of the issue, this was rectified by November 2020. The Tenant testified to the health impact and odour concerns this issue contributed in her enjoyment of the complex.
74. I find that the Landlord failed to meet the Landlord's obligations under subsection 20(1) of the Act to repair and the rental unit and he failed to comply with health, safety, housing, and maintenance standards. This means that a remedy must flow to the Tenant.

Remedies

75. The Tenant is seeking abatement of rent in the amount of 100% for the month of March 2021 -\$1,398.30, and 60% for the 13 months of January 2020 to February 2021 for a total of \$12,232.80.
76. An abatement is a contractual remedy. It recognises the idea that a tenant is paying rent for a bundle of goods and services and if the tenant is not receiving everything being paid for then he or she is entitled to abatement proportional to the difference between what is being paid for and what is being received.
77. The Tenant continued to raise awareness to possible mold issues and odours throughout the tenancy, and a report concluded on July 14, 2020 that some remedial activity was recommended but not undertaken by the Landlord. On this basis and noting that the Tenant subsequently raised awareness of this issue again on June 19, 2020, on balance of probabilities, the mold present then would have been present on June 3, 2020. Rent abatement between 25% to 50% is normally awarded for matters in which there is a serious breach of the Landlord's obligations. Based on similar cases before the Board, I do not find this breach reaches the level of seriousness requiring 50% rent abatement, based on the evidence before the Board 25% is reasonable and justifiable. As such the Tenant should be reimbursed an abatement of rent for the period of Jun 3, 2020 to February 28, 2021 as follow:
- $\$1,398.30 \times 25\% = \$349.58 \times 9 \text{ months} = \$3,146.18 - (2 \text{ days for June 1-2, 2020} - \$91.94) = \$3,054.24$
78. The tenancy was terminated on March 15, 2021, and the townhouse was deemed uninhabitable per (GW) report of March 8, 2021 base on water penetration of February 28, 2021, I am satisfied that the Tenant should be reimbursed for 100% of the rent for the period of March 1, 2021, to March 31, 2021. As the monthly rent is \$1,398.30, the full amount owing for this and above noted time period is **\$4,452.54**.
- $$(\$3,054.24 + \$1,398.30 = \$4,452.54)$$
81. The Tenant also seeks the repayment of costs of \$2,335.49 to repair or replace her property that was damaged, destroyed or disposed of because of the Landlords failure to maintain the rental unit. Based on the evidence before me I am able to consider 50% of the of the cost towards the bookcases and wardrobes as these are deemed to be used items and no evidence was presented to substantiate the initial costs supporting the claim. The Tenant should be reimbursed **\$1,335.49** for the furniture and items of shoes, toilet paper, and paper towel as noted.
82. Third, the Tenant is seeking reimbursement for all of her moving expenses and storage expenses. As per her notice to the Landlord on March 15, 2021, while she waited for the Landlord to provide a report that the unit was suitable to return into she sought 2 months of storage cost. Based on the case before me, the Tenant did not have any intent on returning into the rental unit, the storage of her personal goods would reasonably be a

temporary measure until she found permanent housing and either retrieved her belongings from storage or disposed of them. While the Tenant decided to provide early notice of termination and the notice was accepted by the Landlord, they are not responsible for the Tenant's storage costs indefinitely. As such, the Tenant will be reimbursed \$3,836.35 for receipts she submitted as paid to Ottawa Movers, and \$1,251.02 in storage costs representing the prorated month of March 2021 at \$281.48, May and June 2021 at \$484.77 each. This is to represent a reasonable period of time within which the Tenant ought to have made determinations as to what she intended for her items in storage. The total costs of these expenses as owing to the Tenant is **\$5,087.37**.

83. The Tenant is also seeking all of her out of pocket expenses including the money she spent on mold testing and report, as well as miscellaneous costs for items purchased that she used to protect her belongings. The claim is for a total of \$1,159.85, of which I am able to consider a total of \$395.50 for the cost as rendered for mold testing. I believe this to be reasonable reimbursement as given the Tenant's medical history, witnessing the presence of moisture, this was a measure that would have been reasonably taken. I am not able to consider the other items as they were purchased after the Tenant moved out of the rental unit and can be said to be items that serve in the Tenant's mitigation to protect her property per subsection 16 of the RTA where it states:

16 When a landlord or a tenant becomes liable to pay any amount as a result of a breach of a tenancy agreement, the person entitled to claim the amount has a duty to take reasonable steps to minimize the person's losses.

I am also not able to consider a locksmith charge incurred on March 14, 2020 for \$237.30 as this charge is outside of the time period as contemplated by this application. Therefore, the total costs of these expenses as owing to the Tenant is **\$395.50**.

84. Finally, the Tenant is seeking \$1,525.00 for general damages, these are cost for therapy sessions for which the Tenant incurred and was not reimbursed for. The Tenant alleges that she sought therapy treatments to assist her in her coping with the conditions of the rental unit. The invoices as submitted for services rendered by Daniel Taylor Psychology Professional Corporation stem from a period of January 14, 2020 and depict dates that suggest ad hoc attendance ranging from once to three appointments per month. The Tenant has not proven on a balance of probabilities that these expenses have a direct nexus to the issues as contained in this application, I am therefore denying his request for this cost.

The T2 Application

85. The T2 allegations are as follow:

- Illegal entries into the rental unit
- substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenant

86. The Tenant says that from the commencement of the tenancy in 2015, the Landlord has substantially interfered with the reasonable enjoyment of the unit by the Tenant. This arising from the Landlord's inadequate response in properly resolving the maintenance issues as is subject to the T6 application.
87. The Tenant also alleges illegal entry into the rental unit on two occasions. In February 2020 when a bulkhead was installed above the stove, and again in or around May 2020 when pest control placed traps in the yard.
88. Both of these entries relate to a period prior to June 3, 2020 and as such can not be considered per subsection 29 (2) where it states: "*No application may be made under subsection (1) more than one year after the day the alleged conduct giving rise to the application occurred.*"
89. During the week of March 1, 2021, the Tenant alleges that while the tenant was away from the unit, it appeared that the Landlord used the Tenant's personal property, a roomba vacuum, without permission. In testimony, the Tenant was aware of work being done inside the rental unit post February 28, 2021 water penetration. It was her opinion that since the vacuum had been put away it had been used. The Tenant also submitted that she had not been staying in the rental unit in the two weeks prior.
90. There was insufficient evidence adduced to substantiate this claim, as such it can not be considered.
91. Based on the evidence before me, while the Tenant has not proven on a balance of probabilities the allegations of illegal entries, I am satisfied the Landlord substantially interfered with the Tenant's reasonable enjoyment of the rental unit. However, the remedies above are adequate compensation for this disruption and no further remedy will be ordered.
92. This order contains all of the reasons in this matter and no further reasons will be issued.

It is ordered that:

1. The tenancy between the Landlord and the Tenant terminated as of March 15, 2021, the date the Tenant moved out of the rental unit.
2. The Landlord shall pay the Tenant is \$11,323.90. This amount represents:
 - \$4,452.54 for a rent abatement for the period ending March 31, 2021.
 - \$1,335.49 for the reasonable costs that the Tenant has incurred or will incur to replace property that was damaged, destroyed / disposed of as a result of the Landlord's actions.
 - \$5,482.87 for the reasonable out-of-pocket expenses that the Tenant has incurred for moving, mold testing and storage expenses.
 - \$53.00 for the cost of filing the application.
5. The Landlord shall pay the Tenant the full amount owing by January 27, 2024.

6. If the Landlord does not pay the Tenant the full amount owing by January 27, 2024, the Landlord will owe interest. This will be simple interest calculated from January 28, 2024 at 7.00% annually on the balance outstanding.

January 16, 2024
Date Issued

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.