



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

Citation: HUMENIK LAFOREST v KAMEOKA, 2023 ONLTB 81041

Date: 2023-12-14

File Number: LTB-T-063367-22

In the matter of:	2332 BROOKHURST RD MISSISSAUGA ONTARIO L5J1R2	Tenant
Between:	ZACHARY HUMENIK LAFOREST	
	And	
	KARIN KAMEOKA	Landlord
	And	
	MAGDY DAOUD	Landlord's Agent

2023 ONLTB 81041 (CanLII)

ZACHARY HUMENIK LAFOREST (the 'Tenant') applied for an order determining that KARIN KAMEOKA (the 'Landlord') and MAGDY DAOUD (the 'Landlord's Agent'):

- 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.

This application was scheduled for a Case Conference heard by videoconference on December 6, 2023. Only the Tenant and the Tenant's legal representative, P. Taylor, attended the Case Conference. As of 2:35 p.m., the Landlord or the Landlord's agent was not present or represented at the Case Conference although properly served with notice by the LTB. There was no record of a request to adjourn the Case Conference. As a result, the matter proceeded with only the Tenant's evidence.

Determinations:

1. As explained below, the Tenant proved the allegations contained in the application on a balance of probabilities. Therefore, the Landlord must pay compensation to the Tenant.
2. This tenancy began on December 1, 2019. The Tenant vacated the unit on or about December 5, 2020.
3. The Tenant testified that in December 2020, the Landlord or their agent attended the rental unit without proper notice while he was on vacation. He stated that twice it was obvious because items were moved.

4. On December 5, 2020, the Landlord's agent attended the Tenant's unit and screamed at him because rent was a few days late. The Landlord's agent shouted expletives and threatened to put the Tenant's items on the curb. The Landlord tried to enter the rental unit and the Tenant prevented his entry. A few hours later, the police attended the rental unit and the Tenant advised they could not enter without a warrant. The police returned to the rental unit with a warrant, demanded that the Tenant raise his hands and then tased him four times.
5. The Tenant was charged with assault, but the charges were later withdrawn. The Tenant also learned from the criminal disclosure that the Landlord's agent advised the police that the Tenant assaulted him, that he was only a border and not a tenant and that he was likely to have weapons. The Tenant submits that these statements were untrue.
6. After the incident, the Landlord placed all of the Tenant's belongings outside on the curb. As it was wintertime, many of his belongings were ruined by snow and rain. The Tenant vacated the rental unit due to the Landlord's conduct.
7. Submitted into evidence were copies of text messages between the Tenant and his partner advising of what was said by the Landlord's agent, photographs of the Tenant's body after being tased, and photographs of the Tenant's items on the curb.
8. On a balance of probabilities, I am satisfied that the Landlord's agent substantially interfered with the Tenant and harassed him. I base this on the December 5, 2020 incident wherein the Landlord screamed expletives at the Tenant, threatened to put the Tenant's belongings on the curb, attempted to force themselves into the rental unit and carried out the threat. I base this on the Tenant's believable and credible testimony which was supported by the documents and photographs.
9. I am not satisfied that the Landlord or the Landlord's agent entered the rental unit illegally before December 5, 2020 as the Tenant did not provide sufficient evidence. There was no evidence of when the illegal entries occurred or what was of his items were moved to satisfy me that the Landlord or the agent actually entered the unit.

Remedies

10. The Tenant requested the following remedies:
 - (a) The Landlord stop harassing the Tenant
 - (b) Compensation to repair or replace property that was damaged, destroyed or disposed of due to the Landlord's actions
 - (c) Rent differential
 - (d) Moving and storage expenses
 - (e) General damages
 - (f) Administrative fine
11. For the reasons set out below, requests (a) and (f) are denied and requests (b) to (e) are granted, in part.

12. The Tenant has requested that the Landlord stop harassing the Tenant. It was the Tenant's evidence that he vacated the rental unit. The tenancy has ended. The Board does not have jurisdiction to impose conditions on the Landlord beyond the tenancy agreement. As such, this request is denied.
13. The Tenant has requested compensation to repair and replace property that was damaged. I am satisfied that Tenant's property was damaged when the Landlord placed his belongings on the curb in winter conditions. The photographs submitted into evidence showed waterlogged mattresses and couch, a warped wooden desk, wet cabinets and items in soggy boxes and garbage bags. The Tenant's pleadings identify the disposed of and destroyed items and that the associated cost. Based on the Tenant's uncontested evidence, I find that the amount of \$1,720.00 is reasonable in the circumstances.
14. The Tenant also submits that the new rental unit has a higher rent in the amount of \$400.00 in Burlington, ON. Based on the Tenant's uncontested evidence, I am satisfied that the Tenant paid more in rent at the new rental unit and would not have had to find a new unit but for the Landlord's actions. The rent differential sought by the Tenant in the amount of \$2,000.00 is granted.
15. The Tenant also incurred expenses for moving. The Tenant submitted that he incurred \$150.00 for renting a U-Haul, gas, and travel. I am satisfied that this amount is reasonable in the circumstances.
16. The Tenant also sought \$15,000.00 for pain and suffering, or general damages. The Tenant submitted that the Landlord's agent's conduct had long-standing consequences. The incident caused the Tenant to seek mental health care for several months, he had to move in the middle of winter and the Landlord placing his items on the curb resulted in damage to his belongings, including important paperwork.
17. It is important to note that the Landlord's agent did not tase the Tenant and I am not satisfied that the Landlord's agent caused the police to tase the Tenant. While the Landlord's agent's untruthful statements resulted in the police attendance, the police's aggressive behaviour towards the Tenant was the fault of the police. However, the Landlord's agent tried to force themselves into the rental unit and then placed the Tenant's belongings on the curb in the winter. In my view, this behaviour is analogous to an illegal lockout.
18. An examination of the caselaw shows that the Board has moved towards adopting a consistent approach to general damages in illegal lockout cases. Absent any unusual factors, the normal quantum of general damages awarded for an illegal lockout is, in my view, \$2,500.00. Having considered the above circumstances, I find the Tenant is entitled to \$3,000.00 in damages. The Tenant had a lease agreement with the Landlord that gave him the right to occupy the rental unit, which the Landlord unilaterally interfered with by forcing him out of the rental unit. I find that \$500.00 more should be awarded in this case because the Landlord uttered threats, shouted expletives at the Tenant, and made untruthful statements to induce the police to act.
19. The Tenant also requested that the Board order the Landlord to pay an administrative fine for breach of the Act. The Board's Interpretation Guideline 16 provides insight into the

Board's use of fines and states that an administrative fine is a remedy to be used 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 Act and other remedies will not provide adequate deterrence and compliance."

20. While the Landlord's disregard for the *Residential Tenancies Act, 2006* (the 'Act') is troublesome, in the present case, as the Tenant has been awarded a monetary remedy for pain and suffering, I find that this provides a sufficient deterrent. The request for an order for an administrative fine is denied.

It is ordered that:

1. The total amount the Landlord shall pay to the Tenant is \$6,918.00. This amount represents:
 - \$1,720.00 for the reasonable costs that the Tenant has incurred or will incur to replace property that was damaged as a result of the Landlord's actions.
 - \$2,000.00 for increased rent the Tenant has incurred.
 - \$150.00 for the moving expenses that the Tenant has incurred.
 - \$3,000.00 for general damages.
 - \$48.00 for the cost of filing the application.
2. The Landlord shall pay the Tenant the full amount owing by January 2, 2024.
3. If the Landlord does not pay the Tenant the full amount owing by January 2, 2024, the Landlord will owe interest. This will be simple interest calculated from January 3, 2024 at 7.00% annually on the balance outstanding.
4. The Tenant has the right, at any time, to collect the full amount owing or any balance outstanding under this order.

December 14, 2023

Date Issued

Camille Tancioco

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.