



**Order under Section 69 / 88.2 / 89
Residential Tenancies Act, 2006**

Citation: Lu v Stevens, 2023 ONLTB 80435

Date: 2023-12-13

File Number: LTB-L-067276-22

2023 ONLTB 80435 (CanLII)

In the matter of: 171 SILVERTHORNE DR
CAMBRIDGE ON N3C0C6

Between: Guifang Lu
Qinggang Yuan Landlords

And

Morgan Stevens
Richard Szonyi Tenants

Guifang Lu and Qinggang Yuan (the 'Landlords') applied for an order to terminate the tenancy and evict Morgan Stevens and Richard Szonyi (the 'Tenants') because the Tenants, another occupant of the rental unit or someone the Tenants permitted in the residential complex has wilfully or negligently caused damage to the premises.

The Landlords also claimed compensation for each day the Tenants remained in the unit after the termination date.

The Landlords also applied for an order requiring the Tenants to pay the Landlords' reasonable out-of-pocket expenses that are the result of the Tenants' failure to pay utility costs they were required to pay under the terms of the tenancy agreement.

The Landlords also applied for an order requiring the Tenants to pay the Landlords' reasonable out-of-pocket costs the Landlords have incurred or will incur to repair or replace undue damage to property. The damage was caused wilfully or negligently by the Tenants, another occupant of the rental unit or someone the Tenants permitted in the residential complex.

This application was heard by videoconference on November 16, 2023.

Only the Landlords attended the hearing. The Landlords' daughter, Xiaoyuan Yuan, assisted the Landlords.

As of 12:46 p.m., the Tenants were 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 Landlords' evidence.

Determinations:

1. As explained below, the Landlords have proven on a balance of probabilities the grounds for the claim for compensation in the application. Therefore, the Tenants shall pay to the Landlords \$23,138.16 for compensation for damages to the unit and utility costs they were required to pay under the terms of the tenancy agreement.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. The Tenant vacated the rental unit on December 4, 2022. As such, the issue of termination is moot. The only issues remaining are damages pursuant to section 89 and utility costs pursuant to section 88.2 of the *Residential Tenancies Act*, 2006 (the 'Act').

Utility Costs

4. The Landlords presented a copy of a lease agreement for the rental unit, signed by the Tenants on October 3, 2019. Page 4 of the lease indicates that the Tenants are responsible for the utility costs which includes electricity, water, and heat.
5. The Landlords provided 2 water bills from the City of Cambridge in the amounts of \$218.04 and \$198.34.
6. The Landlords testified that the Tenants were notified of the balance outstanding and that the bills were mailed to the rental unit. The Landlords submitted that the City of Cambridge advised them that the balance would be transferred to their property taxes if payments were not made. The Landlords submitted into evidence a copy of their bank records indicating payments in the amounts of \$218.04 and \$198.34 were made to the City of Cambridge.
7. Based on the uncontested evidence before me, I am satisfied that the Tenants failed to pay utility costs that they were required to pay under the terms of the tenancy agreement. The Landlords have incurred reasonable out-of-pocket expenses of \$416.38 as a result of the Tenants' failure to pay water costs and the Tenants will be ordered to repay those expenses.

Damages

8. In order for an application to succeed under subsection 89(1) of the Act, a landlord must establish the following:
 - I. There was property damage to the rental unit or residential complex;
 - II. The damage is "undue" meaning that it is not normal wear and tear; and
 - III. The damage was a result of wilful or negligent conduct by the Tenant, occupant or guest.

9. In this context, I take the word “property” to refer to the physical objects like the walls, ceilings, floors, appliances, and fixtures in a residential complex.
10. If all of these factors are met, then the Board can award the landlord’s reasonable cost of repair, or the replacement cost if it is not reasonable for the damage to be repaired.
11. By way of background, the rental unit is a two-level detached house with an unfinished basement. The tenancy commenced on November 4, 2019.
12. The Landlords submitted photographs of the rental unit taken on October 30, 2019 before the tenancy commenced, photographs of the rental unit taken on September 25, 2022, and photographs of the rental unit taken after the Tenants moved out of the rental unit.

Carpet

13. The Landlords submitted photographs of the carpet on the second floor. The carpet in each room is visibility stained and discoloured. The Landlords submitted that the damages are due to the Tenants’ 3 dogs. The Landlords testified that a strong urine odor was detected during the inspection. The Landlords submitted photographs of the padding and subfloor under the carpet which are similarly stained and discoloured.
8. The Landlords testified that they contacted cleaning companies and was advised that there was no way to clean and restore the carpet and remove the smell completely. As a result, they chose to replace the carpet with vinyl flooring as vinyl flooring was less expensive.
9. The Landlord submitted into evidence a receipt from Lowe’s indicating that the vinyl flooring was purchased for \$2,399.44.

Graffiti on surfaces

10. The Landlords submitted photographs of the walls, doors, and trims with writing, drawings, and markings in different rooms of the rental unit.
11. The Landlord testified that the walls, doors and trims had to be repainted. The Landlord submitted into evidence 2 receipts from Dulux indicating that the paint and materials purchased for \$728.18.

Holes and cracks in the walls

12. The Landlords submitted photographs of the walls in different areas of the rental unit with holes in the walls. The Landlords testified there were approximately 100 to 150 holes they had to fill. In addition to the holes, there was a large crack in one of the walls.
13. The Landlord testified that the material purchased to fill the holes and repair the crack was estimated to be \$300.00.

Ensuite bathtub

14. The Landlords submitted photographs of the bathtub in the master bedroom ensuite bathroom. The handles for the faucet were missing and there is a hole in the bathtub.
15. The Landlords submitted into evidence 2 invoices from Acrylic and Fiberglass Repair Inc. and L&L Home Services Inc. The total cost to repair the bathtub was \$830.55.

Windows and mesh screens

16. The Landlords submitted photographs of the 2 basement windows with the glass cracked and mesh screen broken. The Landlords testified that the mesh and frame of one of the windows in one bedroom was also damaged.
17. The Landlords submitted into evidence an estimate from The Glass Medic indicating the cost to repair the windows was \$678.00.

Garbage

18. The Landlords testified that the Tenants left an excessive amount of garbage in the rental unit the Landlords had to dispose of. Photographs were submitted into evidence showing a substantial number of items were left in the rental unit by the Tenants.
19. The Landlords submitted into evidence a receipt from the City of Guelph in the amount of \$31.00. The Landlords testified that they had to pay \$31.00 to dispose the Tenants' garbage.

Duct cleaning

20. The Landlords testified that they provided the Tenants with air filters, but the Tenants never changed them during their tenancy. The Landlords submitted a picture of a dirty and congested filter. Due to this, the Landlords submitted that they had to get the ducts cleaned. A copy of an email from BreezeCome Home Services Inc. with the \$280.00 cost was submitted into evidence.

Garage door bar

21. The Landlords submitted a photograph of the bent garage door bar and testified that the Tenants damaged the bar. As a result, the garage door would not close properly.
22. The Landlords submitted into evidence a receipt from The Door Master indicating the cost to repair the garage door was \$226.00.

Cleaning supplies

23. The Landlords testified that they spent \$580.00 on cleaning supplies and tools to clean the rental unit. This amount included a vacuum, gloves, wipes, paper towels, cleaning solutions and sprays, and mops.

Labour costs

24. The Landlords testified that they hired two handymen, Lingxiao Li and Tianyang Yang, to clean the rental unit, to dispose of garbage, and to conduct repairs for the months of December 2022 to April 2023. Payment receipts, totaling \$14,348.00, signed by the Landlords and the individuals were submitted into evidence.

Washing machine

25. The Landlords submitted photographs of the washing machine. The Landlords testified that the machine was broken resulting in the water not draining and that a piece of the door boot seal was ripped.

26. The Landlords submitted into evidence two receipts to purchase the replacement drain motor for \$35.99 and door boot seal for \$130.31.

Keys and locks

27. The Landlords testified that the locks on the front door to the rental unit and the door from the garage to the house were broken. The costs to replace the locks were \$316.15. Photographs of the front door were submitted. The key cylinder is displaced, and the lock component is missing.

28. The Landlords submitted that the Tenants did not return mailbox keys or the garage door opener remote. The Landlord paid \$22.59 for a new garage door opener remote and paid Canada Post \$32.77 to replace the lock and obtain keys for the mailbox.

Ensuite bathroom sink

29. The Landlords testified that the sink in the master bedroom ensuite bathroom was clogged. Photographs were submitted showing foreign items removed from the p-trap of the sink drain. Items included pieces of broken plastic and a broken needle syringe.

30. The Landlords submitted into evidence 2 receipts from The Home Depot. The total cost to purchase the material to repair the sink was \$153.00.

Ensuite bathroom leak

31. Due to the sink clog described in paragraph 29, the Landlords testified that a leak occurred and caused water damage to the ceiling on the ground floor in the area under the bathroom. The Landlords submitted that the Tenants torn off a section of the ceiling drywall to investigate the leak and did not patch or repair the opening. Photographs were submitted showing a large opening in the ceiling with framing and cables exposed.

32. The Landlords submitted into evidence 2 receipts from The Home Depot. The total cost to purchase the material to repair the opening in the ceiling was \$122.09.

Light switch cover and outlet cover

33. The Landlords testified that a light switch cover and outlet cover were removed and missing. The Landlords submitted 2 photographs of the outlet and light switch without the covers and testified that it cost \$23.97 to purchase the replacement covers.

Patio door and screen

34. The Landlords testified that a metal strike plate was nailed into the patio door and that the screen was torn out. The Landlords submitted a photograph of the patio door and testified that it cost \$77.80 to repair and replace the screen.

Kitchen cabinet doors

35. The Landlords testified that 4 kitchen cabinets doors were damaged by the Tenants. Photographs were submitted showing dents, deep scratches, and markings on the doors. The Landlords submitted that it would cost \$100.00 to replace each door. The total for 4 doors would be \$400.00.

Smoke detectors

36. The Landlords testified that the smoke detector on the ground floor was broken and the smoke detector on the second floor was missing. The Landlord submitted a receipt from The Home Depot. The cost to purchase 2 smoke detectors was \$55.94.

Refrigerator bins and drawers

37. The Landlords submitted photographs of the refrigerator. On the freeze side, 3 door bins were missing. On the fridge side, 2 door bins and 1 drawer were cracked with plastic sections broken off. The Landlords testified that they estimate the cost to replace the missing bins and drawer to be \$500.00 as each bin was \$70.00 and the drawer was \$100.00.

Curtains

38. The Landlords testified that curtains in the rental unit were removed. Prior to the Tenants moving in, the Landlords had furnished the 9 windows in the rental unit with curtains. The Landlords submitted that each set of curtains cost \$50.00, totaling \$450.00 for the 9 windows.

Basement insulation and the Landlords' labour costs

39. The Landlords submitted photographs of the basement insulation with paint, markings, and holes in them. The Landlords submitted that it would cost \$500.00 to repair the damaged insulation. The Landlords did not provide evidence, such as a quote or estimate, to substantiate the cost of \$500.00. As such, the claim for this compensation is denied.

40. The Landlords requested compensation in the amount of \$8,508.00 for the hours the Landlord, Qinggang Yuan (“QY”), spent repairing and cleaning the rental unit for 5 months after the Tenants vacated.
41. Section 89(1) of the Act states: A landlord may apply to the Board for an order requiring a tenant or former tenant to pay reasonable costs that the landlord has incurred or will incur for the repair of or, where repairing is not reasonable, the replacement of damaged property if,
 - (a) while the tenant or former tenant is or was in possession of the rental unit, the tenant or former tenant, another occupant of the rental unit or a person permitted in the residential complex by the tenant or former tenant willfully or negligently causes or caused undue damage to the rental unit or the residential complex
42. The Landlords acknowledged that QY is retired and does not work. As the Landlords did not incur costs for QY’s time, I find it inappropriate to grant this request for compensation. While I find that the damage caused was clearly extensive, and beyond wear and tear, maintaining a rental unit and cleaning after tenants vacate is an ordinary part of being a landlord.
43. The Landlords submitted detailed receipts for each item that they replaced into evidence, along with photographs of the damage to the unit. The Landlords submitted photographs of the rental unit taken before the Tenants moved in that showed the damage and excessive amount of belongings were not present prior to the commencement of the tenancy. Based on the uncontested evidence before me and on a balance of probabilities, I am satisfied that the Tenants willfully or negligently caused undue damage to the unit and that the costs being sought by the Landlords are reasonable. The total cost of \$22,721.78 will be awarded to the Landlords for the items that were to be replaced and the maintenance costs to repair any damaged items.

It is ordered that:

1. The Tenants shall pay to the Landlords \$416.38, which represents the reasonable out-of-pocket expenses the Landlords has incurred or will incur as a result of the unpaid utility costs.
2. The Tenants shall pay to the Landlords \$22,721.78, which represents the reasonable costs of repairing the damage and replacing the damaged property.
3. The Tenants shall also pay to the Landlords \$186.00 for the cost of filing the application.
4. The total amount the Tenants owes the Landlords is \$23,324.16.
5. If the Tenants does not pay the Landlords the full amount owing on or before December 24, 2023, the Tenants will start to owe interest. This will be simple interest calculated from December 25, 2023 at 7.00% annually on the balance outstanding.

December 13, 2023

Date Issued

Vicky Liu

File Number: LTB-L-067276-22

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.

2023 ONLTB 80435 (CanLI)