



**Order under Subsections 30, 31 and 135  
Residential Tenancies Act, 2006**

**Citation:** GOKOOL v TENG, 2023 ONLTB 79814

**Date:** 2023-12-08 **File Number:** LTB-T-066699-22, LTB-T-065853-22 &  
LTB-T-065997-22

**In the matter of:** 47 MEDOC PLACE N. E.  
THORNHILL ON L4J8Y9

Tenants

**Between:** DIANE GOKOOL  
JOSCELYN GOKOOL-CLARK  
NIKO GOKOOL-CLARK

**And**

Landlords

FEI TENG  
JIN BIJUAN

DIANE GOKOOL, JOSCELYN GOKOOL-CLARK and NIKO GOKOOL-CLARK (the 'Tenants') applied for an order determining that FEI TENG and JIN BIJUAN (the 'Landlords') collected or retained money illegally. (T1 Application LTB-T-066699-22)

The Tenants also applied for an order determining that the Landlords failed to meet the Landlords' maintenance obligations under the *Residential Tenancies Act, 2006* (the 'Act') or failed to comply with health, safety, housing or maintenance standards. (T6 Application LTB-T-06585322)

The Tenants also applied for an order determining that the Landlords entered the rental unit illegally; substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenants or by a member of their household; harassed, obstructed, coerced, threatened or interfered with the Tenants; and withheld or interfered with their vital services. (T2 Application LTB-T-065997-22)

The applications were heard by videoconference on November 29, 2023.

The Landlords, the Landlords' Legal Representative, Wen Liu, the Landlords' Agent, Tim Teng, and the Tenants, Diane Gokool and Joscelyn Gokool-Clark representing all three Tenants, attended the hearing.

**Determinations:**

T1 Application LTB-T-066699-22

1. The Tenants filed the application with the Board on September 2, 2021, alleging that the Landlords had charged illegal rent and that the Landlords did not use the last month's rent deposit for the last period of the tenancy. The Tenants are seeking a return of the last month's rent deposit plus interest owing on the last month's rent deposit as well as the difference between the two separate rent charges they received from the Landlords.
2. The Landlords are holding a last month's rent deposit of \$1,500.00 which was collected on March 1, 2018.
3. The monthly rent at the time the Tenants vacated the rental unit was \$1,600.00. When the Tenants moved into the rental unit on March 1, 2018, the monthly rent was \$1,500.00. On September 1, 2019, the Landlords raised the rent to \$1,600.00 due to the Tenants moving another adult tenant into the rental unit. The Tenants paid this new rent amount until they vacated.
4. Since the Tenants paid this new rent amount for over 1 year and didn't file with the Board for 2 years after the rent increase, the Board has no jurisdiction to order the Landlords to pay back the difference in the rent increase to the Tenants.
5. However, the Tenants stated that they packed their belongings and moved out of the rental unit on September 16, 2020. The Tenants had paid the rent for the entire month of September 2020 and as a result, their last month's rent deposit was not credited towards their last month of the tenancy by the Landlords.
6. A signed N11 Agreement to End the Tenancy between the Landlords and the Tenants was submitted into evidence with October 1, 2020, as the agreed upon date that the tenancy was to terminate.
7. During the hearing, the Landlords' Legal Representative did state that the Tenants had moved their belongings out of the rental unit on September 16, 2020, but the Landlords' Legal Representative added that the Tenants did not return the key.

Findings & Analysis

8. I find that the Landlords did not collect rent in excess of the amount allowed by the *Residential Tenancies Act, 2006* (the 'Act') and that the Tenants' claim for illegal rent is denied.
9. However, I do find that since the Landlords were aware that Tenants had moved out September 16, 2020, and that there was a signed N11 to terminate the tenancy, the Landlords clearly did not use the Tenants' rent deposit to pay for the last rental period of the tenancy and did not return the deposit to the Tenants. The Landlords' actions are

**File Number:** LTB-T-066699-22, LTB-T-065853-22 & LTB-T-065997-22 prohibited by the *Residential Tenancies Act, 2006* (the 'Act') and as a result, the Landlords owe \$1,500.00 to the Tenants.

10. The Landlords also failed to pay the Tenants interest on the last month's rent deposit, as required by the *Residential Tenancies Act, 2006* (the 'Act'). In this case, the interest owing now totals \$69.00 to the date of this hearing.
11. The Tenants incurred costs of \$53.00 for filing this application and are entitled to reimbursement of these costs.

#### T6 Application LTB-T-065853-22

12. The Tenants filed the T6 application with the Board on August 31, 2021, alleging that the Landlords failed to meet the Landlords' maintenance obligations under the *Residential Tenancies Act, 2006* (the 'Act') or failed to comply with health, safety, housing or maintenance standards.
13. The Tenants brought up 4 maintenance issues at the hearing. A mould/moisture issue, a heating/AC issue, a stove issue and a laundry room issue. All of the evidence presented by the Tenants occurred in late 2018, 2019 and early 2020. Unfortunately, the Board is not able to consider evidence more than one year after the date of the alleged conduct, as per section 29(2) of the *Residential Tenancies Act, 2006* (the 'Act').
14. During the hearing, I allowed the Tenants time to explain each of the issues in order to see if any issues were still ongoing and within the one-year limitation period. It is of note that in each and every instance of the alleged maintenance issues that the Tenants brought up, except one, that the Landlords responded the same day or the next day to each and every concern of the Tenants.
15. The mould/moisture issue is the only issue that could have been considered in this matter due to fact the Tenants stated that the issue was ongoing at the time of their vacating the rental unit on September 16, 2020.
16. The Tenants explained that in March 2020 they had noticed water coming into the back bedroom. However, they did not report it to the Landlords until August 2020, a full 5 months later. The Landlords' Legal Representative asked how could the Landlords properly repair the damage if they had no idea about it until long after it had occurred? The Landlords' Legal Representative explained that due to the Tenants not informing anyone of this issue, it could not be dealt with in a reasonable timeframe. The Landlords' Legal Representative added that it was the Tenants' own fault that the water issue got worse and caused more damage to the rental unit, not the Landlords'.
17. At the hearing, the Tenants did not dispute that the Landlords were not informed of the issue of the water in the bedroom until August 2020.

Findings & Analysis

18. Section 20(1) of the *Residential Tenancies Act, 2006* (the “Act”) states:

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.

19. In *Onyskiw v. CJM Property Management Ltd.*, 2016 ONCA 477, the Court of Appeal held that it is necessary to take a contextual approach to determine whether a landlord has breached its maintenance obligations under section 20(1) of the Act and a landlord will not be found liable for such a breach if the Landlord responded to the maintenance issue reasonably in the circumstances. In *Onyskiw*, the Court of Appeal also specifically considered the Landlord's mitigating efforts as part of its contextual analysis.

20. With regards to the mould/moisture issue, I find that since the Tenants did not inform the Landlords in a timely manner, the Tenants are not entitled to any remedy with this issue. Furthermore, since the rest of the issues brought forward by the Tenants took place more than one year from the time the Tenants filed the T6 application, the Tenants' T6 application must be dismissed.

T2 Application LTB-T-065997-22

21. The Tenants filed the T2 application with the Board on August 31, 2021, alleging that the Landlords entered the rental unit illegally; substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenants or by a member of their household; harassed, obstructed, coerced, threatened or interfered with the Tenants; and withheld or interfered with their vital services.

22. At the hearing, the parties were informed that the T2 application would only proceed if the T6 application had merit since all of the issues in the T2 application were tied directly to the issues in the T6 application. Like the T6 application before it, the Board is not able to consider evidence of the T2 application since the alleged conduct took place more than one year before the date the T2 application was filed, as per section 29(2) of the *Residential Tenancies Act, 2006* (the ‘Act’).

23. Therefore, since the application is out of time, the Tenants' T2 application must also be dismissed.

24. This order contains all of reasons in this matter and no further reasons shall be issued.

**It is ordered that:**

1. The Tenants' T6 Application, file LTB-T-065853-22, is dismissed.
2. The Tenants' T2 Application, file LTB-T-065997-22, is also dismissed.
3. The total amount the Landlords shall pay the Tenants is **\$1,622.00** for the Tenants' T1 application, LTB-T-066699-22. This amount represents:
  - o \$1,500.00 for the last month's rent deposit.
  - o \$69.00 for interest on the last month's rent deposit.
  - o \$53.00 for the cost of filing the T1 application.
4. The Landlords shall pay the Tenants the full amount owing by December 19, 2023.
5. If the Landlords do not pay the Tenants the full amount owing by December 19, 2023, the Landlords will owe interest. This will be simple interest calculated from December 20, 2023, at 7.00% annually on the balance outstanding.

**December 8, 2023**

**Date Issued**

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Michael Di Salle

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.