



**Tribunals Ontario**  
Landlord and Tenant Board

**Tribunaux décisionnels Ontario**  
Commission de la location immobilière

## **Order under Section 87 88.2 89 Residential Tenancies Act, 2006**

**Citation:** Tavakoli v Rafiei, 2023 ONLTB 77280

2023 ONLTB 77280 (CanLII)

**In the matter of:** 143 Steeles Avenue East  
Toronto Ontario M2M3Y5

**Between:** Mehrasa Tavakoli Landlord

**And**

Mina Rafiei Former Tenant  
Fashion Homes

Mehrasa Tavakoli (the 'Landlord') applied for an order requiring (the 'Former Tenant') to pay the rent and daily compensation that the Former Tenant owes.

Mehrasa Tavakoli (the 'Landlord') applied for an order requiring (the 'Former Tenant') to pay the Landlord's reasonable out-of-pocket costs that are the result of the Former Tenant's failure to pay utility costs they were required to pay under the terms of the tenancy agreement.

Mehrasa Tavakoli (the 'Landlord') applied for an order requiring (the 'Former Tenant') to pay the Landlord's reasonable out-of-pocket costs that the Landlord incurred or will incur to repair or replace undue damage to property. The damage was caused wilfully or negligently by the Former Tenant, another occupant of the rental unit or someone the Former Tenant permitted in the residential complex.

This application was heard by videoconference on September 28, 2023.

The Landlord's legal representative, Barrington Lue Sang, and the Landlord attended the hearing.

**Determinations:**

1. I am satisfied that the Landlord served the Former Tenant with the application and Notice of Hearing at least 30 days before the hearing in accordance with Rule 3.3 of the LTB's Rules of Procedure.
2. I am satisfied that the Landlord served the Former Tenant with the application and Notice of Hearing using a method permitted in subsection 191(1.0.1) of the *Residential Tenancies Act, 2006* (the 'Act') and Rule 3.3 of the LTB's Rules of Procedure.
3. These documents were served on August 22, 2023 by email. The Landlord submitted the tenancy agreement to support the Former Tenant had agreed to be served documents by email.
4. The Former Tenant vacated the rental unit on October 10, 2021.
5. The application was filed within one year after the Former Tenant ceased to be in possession of the rental unit.

Rent Arrears

6. The Landlord claims the Former Tenant owes rent in the amount of \$19,362.00 for the period between March 1, 2020 and December 31, 2021.
7. The Landlord submitted a ledger into evidence to support her claim of the total arrears outstanding up to December 31, 2021.
8. The Landlord is claiming additional months of arrears for the months of November 2021 and December 2021 under section 88 of the Act.

The Act and Analysis

9. Section 88 of the Act states:

Arrears of rent when tenant abandons or vacates without notice

88 (1) If a tenant abandons or vacates a rental unit without giving notice of termination in accordance with this Act and no agreement to terminate has been made or the landlord has not given notice to terminate the tenancy, a determination

of the amount of arrears of rent owing by the tenant shall be made in accordance with the following rules:

1. If the tenant vacated the rental unit after giving notice that was not in accordance with this Act, arrears of rent are owing for the period that ends on the earliest termination date that could have been specified in the notice, had the notice been given in accordance with section 47, 96 or 145, as the case may be.
2. If the tenant abandoned or vacated the rental unit without giving any notice, arrears of rent are owing for the period that ends on the earliest termination date that could have been specified in a notice of termination had the tenant, on the date that the landlord knew or ought to have known that the tenant had abandoned or vacated the rental unit, given notice of termination in accordance with section 47, 96 or 145, as the case may be.
8. The Landlord's uncontested testimony is that the Former Tenant did not provide proper notice to terminate the tenancy. In the absence of any testimony from the Tenant and with the evidence before me and on a balance of probabilities, I find the Former Tenant did not terminate the tenancy with proper notice and therefore the Landlord's claim for rent for November 2021 and December 2021 is granted.
9. The Former Tenant has not made any payments since the application was filed.
10. The Landlord is holding a last month's rent deposit in the amount of \$3,000.00 collected March 1, 2016 and this will be applied to the arrears owing the Landlord.
11. The Landlord has not paid interest on the last month's rent deposit and interest in the amount of \$229.04 is owing to the Former Tenant.
12. The total arrears the Former Tenant owes the Landlord is as follows:  
  
March 1, 2020 to December 31, 2021: \$19,362.00  
  
Minus last month's rent deposit: \$3,000 and interest \$229.04 = \$3,229.04  
  
Balance of arrears owing: \$19,362.00 - \$3,229.04 = **\$16,132.96**

#### Utility Bills Unpaid

13. The Landlord claims the Former Tenant did not pay the utility bills she was required to pay under the tenancy agreement.
14. The Landlord submitted a copy of the tenancy agreement into evidence to support her claim. The Landlord claims the unpaid utility bills were added to the Landlord's tax bill

which the landlord paid. The Landlord also submitted into evidence copies of the tax bill in the amount of the unpaid utilities.

15. In the absence of any evidence or testimony on behalf of the Former Tenant I find with the evidence before me and on a balance of probabilities the Landlord has met the burden of proof to support her claim of unpaid utilities by the Former Tenant and therefore the Landlord's request for unpaid utilities in the amount of \$8,114.21 is granted

### Damage

16. The Landlord is claiming \$1,000.00 in the form of an insurance deductible the Landlord paid due to flooding caused by the Former Tenant.
17. The Landlord gave uncontested testimony that sometime in September 2021 the Former Tenant caused a flood in the rental unit which caused extensive water damage. The Landlord was forced to repair the damage through her insurance company and paid a \$1,000.00 deductible.
18. As of the day of the hearing the Landlord did not submit any receipt or confirmation the Landlord had paid an amount of \$1,000.00 in the form of a deductible.
19. While I note that oral testimony is evidence, I also note that it is the Landlord's responsibility to provide evidence to the Board to support the Landlord's claim.
20. In the absence of any supporting documentation to confirm the Landlord's testimony she paid a deductible or what that amount was I am denying the Landlord's claim for \$1,000.00 and this portion will not be granted in the Landlord's application.
21. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.
18. I have considered all of the evidence presented at the hearing and all of the oral testimony and although I may not have referred to each piece of evidence individually or referenced all of the testimony, I have considered it when making my determinations.
19. This order contains all reasons for the determinations and order made. No further reasons will be issued.

**It is ordered that:**

1. The Former Tenant shall pay to the Landlord \$16,132.96, which represents rent and compensation owing up to December 31, 2021.
2. The Former Tenant shall also pay to the Landlord \$8,114.21, which represents the reasonable out-of-pocket expenses the Landlord incurred as a result of the unpaid utility costs.
3. The Former Tenant shall pay to the Landlord \$201.00 for the cost of filing the application.
4. The total amount the Former Tenant owes the Landlord is \$24,48.17.
5. If the Former Tenant does not pay the Landlord the full amount owing on or before December 8, 2023, the Former Tenant will start to owe interest. This will be simple interest calculated from December 9, 2023 at 7.00% annually on the balance outstanding.

**November 27, 2023**

**Date Issued**  
Brocanier

Greg

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.

\* Refer to the attached Summary of Calculations.