



**Order under Section 69 / 88.1 / 89  
Residential Tenancies Act, 2006**

**Citation:** Kisson v Samuel, 2023 ONLTB 76277

**Date:** 2023-11-22

**File Number:** LTB-L-056876-22

**In the matter of:** Main Floor, 151 DOOLEY CRES  
AJAX ON L1T4J6

**Between:** Krista Kisson  
Darren Jadunath Landlords

**And**

Kim a.k.a Kimberly Samuel Tenant

Krista Kisson and Darren Jadunath (the 'Landlords') applied for an order to terminate the tenancy and evict Kim a.k.a Kimberly Samuel (the 'Tenant') because:

- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlords or another tenant;
- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has wilfully or negligently caused damage to the premises.

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

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

The Landlords also applied for an order requiring the Tenant to pay the Landlords' reasonable out-of-pocket expenses that are the result of the Tenant's conduct or that of another occupant of the rental unit or someone the Tenant permitted in the residential complex. This conduct substantially interfered with the Landlords' reasonable enjoyment of the residential complex or another lawful right, privilege or interest.

This application was heard by videoconference on October 31, 2023.

The Landlords, Krista Kisson ("KK") and Darren Jadunath ("DJ"), the Landlords' Legal Representative, Linda Flores, and the Tenant attended the hearing.

**Determinations:**

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1. The parties agreed that the tenancy terminated April 1, 2022, the day the Tenant moved out. As such, the application to terminate the tenancy is dismissed as moot and the application proceeded with the Landlords' claim for costs and damages.
2. As explained below, the Landlords have proven on a balance of probabilities the grounds the claim for compensation in the application. Therefore, the Tenant shall pay the Landlords \$2,100.00.
3. 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.

#### *Damage to the Bedroom Door*

4. KK testified that the bedroom door was observed to be damaged during the unit inspection completed on July 19, 2022. A picture of the door taken on July 19, 2022 was submitted into evidence. KK testified that the Tenant's occupant was present during the inspection and admitted to damaging the door.
5. KK acknowledged the door was fixed by the Tenant, but the door frame was not repaired. As the door frame was not claimed on the application and the Tenant repaired or replaced the door as requested, the request for compensation for the bedroom door is dismissed.

#### *Damage to the Fireplace*

6. KK testified that the grill of the fireplace was missing and that the Tenant painted the mantle black without the Landlords' consent. The mantle was previously white. A picture of the fireplace taken on July 19, 2022 was submitted into evidence.
7. The Landlords' Representative submitted a quote dated August 10, 2022 from Magnesh, an independent general contractor, which showed the cost to replace the fireplace and repair the mantle in the amount of \$1,700.00.
8. The Tenant acknowledged that she did paint the mantle black but denied that the fireplace was missing the grill. The Tenant admitted she did not ask the Landlord for permission to paint. The Tenant testified that she only took apart the fireplace to clean and everything was put back into place after. The Tenant submitted that there were no damages or missing pieces to the fireplace.

#### *Alternation to Locks*

9. KK testified that the Tenant changed the front door and garage door locks without the Landlords' consent. The Landlords did not have access to the rental unit and was only able to access the rental unit after the Tenant vacated as the door was left open.
10. The quote dated August 10, 2022 submitted showed the cost to replace the front door and garage door locks in the amount of \$1,000.00.
11. The Tenant acknowledged that she did change the locks 7 years ago when she moved in and did not provide the Landlords a copy of the keys. The Tenant submitted that the locks were not functional when she moved into the rental unit and the Landlords were aware of

the change and thanked her. The Tenant did not offer the Landlord a copy of the keys as the Landlords had access to the garage and was able enter the rental unit through the garage.

### *Damage to the Floors*

12. KK testified that the hardwood floor in the living room of the rental unit was damaged by the Tenant. Pictures of the floor taken on July 19, 2022 were submitted into evidence.
13. KK testified that the floors were replaced in May 2015 and there were no scratches or warping before the Tenant occupied the unit in February 2016. KK submitted that the damages to the floor were caused by the Tenant housing and training large dogs in the unit. Pictures of the dogs being trained in the unit were submitted into evidence.
14. The quote dated August 10, 2022 submitted showed the cost to replace the affected floor in the amount of \$7,650.00.
15. The Tenant acknowledged that she had 3 dogs in the rental unit but did not use the rental unit as a business to train and house dogs. Her guest, who is showed in the pictures, is the owner of a dog training school and has facilities elsewhere to operate his business.
16. The Tenant submitted that there were scratches on the floor when she moved into the rental unit and that the floor was damaged due to water damages from multiple leaks that occurred in the rental unit throughout the tenancy.

### *Analysis*

#### *Alternation to Locks*

17. The Tenant admitted to changing the locks. While the Tenant submitted the Landlords always had access to the unit and that the locks were a betterment to the unit, the Tenant did not provide a copy of the keys to the Landlords and did not reinstall the original locks upon vacating the unit.
18. Section 35(3) of the *Residential Tenancies Act, 2006* (the 'Act') states: If the Board in an application under subsection (2) determines that a tenant has altered the locking system or caused it to be altered, the Board may order that the tenant provide the landlord with keys or pay the landlord the reasonable out-of-pocket expenses necessary to change the locking system.
19. The Landlords served the Tenant the N5 Notice on August 22, 2022 alleging that the Tenant had change the locks and requiring the Tenant to provide keys to the Landlords. In my view, the Tenant was aware at that time that there was a dispute over the locks and keys and could have remedied this issue at that time or prior to moving out by providing copy of the keys to the Landlords or reinstalling the original locks.
20. Based on the evidence before me, I find that, on the balance of probabilities, the Tenant changed the locks without the Landlord's consent and therefore is responsible for the costs to replace the locks. The Landlords' quote showed these costs to be \$1,000.00. In my view, this amount is excessive. There was no evidence before me that the locks were

unique or required special expertise to remove or install. I am prepared to grant \$400.00 for the costs to replace the locks.

#### *Damage to the Fireplace*

21. The Tenant admitted to painting the fireplace without the Landlords' consent. Based on the picture submitted by the Landlords, there appears to be a piece missing between the glass of the fireplace and the lower mantel above the fireplace.
22. Based on the evidence before me, I find that, on the balance of probabilities, the Tenant damaged the fireplace and painted the mantel without the Landlords' consent and therefore is responsible for the costs of \$1,700.00 to replace the fireplace grill and repaint the mantel. Considering the cost of a fireplace grill, costs of paint and supplies, and labor costs and without evidence to contradict the amount, I find the amount requested reasonable.

#### *Damage to the Floors*

23. Based on the evidence before me, I find that the Landlord has not established that the Tenant caused undue damage to the living room floor. The Landlords did not provide photographic evidence of the floor before the Tenant moved in. While the Tenant admitted she had dogs, the Landlords did not persuade me that the Tenant or her guest were using the rental unit as a training facility for dogs and that the damages were caused by the dogs.
24. Furthermore, the Landlords did not persuade me that the floor was beyond repair and that the hardwood, subfloor, and baseboards had be replaced in its entirety. There was no evidence me before that the Landlords attempted to salvage the floor with repairs. Pursuant to section 16 of the Act, parties have a duty to take reasonable steps to mitigate losses.

#### **It is ordered that:**

1. The Tenant shall pay to the Landlords \$2,100.00, which represents the reasonable costs of repairing the damage and replacing the damaged property.
2. The Tenant shall also pay to the Landlords \$186.00 for the cost of filing the application.
3. If the Tenant does not pay the Landlords the full amount owing on or before December 3, 2023, the Tenant will start to owe interest. This will be simple interest calculated from December 4, 2023 at 7.00% annually on the balance outstanding.

**November 22, 2023**  
Date Issued

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Vicky Liu  
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.