



**Tribunals Ontario**  
Landlord and Tenant Board

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

## Order under Subsection 30 Residential Tenancies Act, 2006

**Citation:** Turliuk v Colagiacomo, 2023 ONLTB 75913

**Date:** 2023-11-22

**File Number:** LTB-T-070567-22

LTB-T-013146-22

LTB-T-013147-22

LTB-T-063734-22

**In the matter of:** 6, 304 S Kingsway S  
Toronto ON M6S3T9

**Between:** Jennifer Turliuk Tenant

**And**

Peter Colagiacomo Landlord

Jennifer Turliuk (the 'Tenant') applied for an order determining that Peter Colagiacomo (the 'Landlord') failed to meet the Landlord's maintenance obligations under the *Residential Tenancies Act, 2006* (the 'Act') or failed to comply with health, safety, housing or maintenance standards (T6 Applications) in that he failed to address the alleged excessive noise from another tenant.

The Tenant also applied for an order determining that the Landlord substantially interfered with her reasonable enjoyment of the rental unit or residential complex by failing to address ongoing maintenance issue in a timely manner (T2 Applications).

### Procedural history:

These applications were initially heard on December 14, 2022 and adjourned so that the Tenant could seek legal counsel and have all of her applications combined to be heard together.

These applications were next heard on September 25, 2023, and adjourned in order to allow the Tenant to make submissions pursuant to their request for a confidentiality order.

These applications were reconvened by videoconference on November 6, 2023, at 09:00 am.

The Landlord Representative Maria Sturino, the Landlord and the Tenant attended the hearing.

**Determinations:**

1. At the outset of the hearing, before I could render my decision regarding the Tenant's request for a closed hearing and redacted order, the Tenant requested consent of the Board to withdraw their applications because the issue(s) raised appear to be resolved by the Landlord's notice to the other tenant.
2. In accordance with subsection 200(4) of the Act, I consent to the withdrawal of the application.
3. In response to the Tenant's request, the Landlord Representative requested that I order the Tenant to pay that the Landlord's costs pursuant to section 204(3) of the *Residential Tenancies Act, 2006* (the "Act") and LTB Rule 23.2. It was her submission that the Tenant's applications were both frivolous and vexatious. It was also her submission that the Landlord issued a second notice to the other tenant in July 2022, and that since that time, before the last and current hearing, the Tenant had ample opportunity to withdraw their applications.
4. In response the Tenant submitted that her applications were neither frivolous or vexatious, testifying that the issue had been extant and had a significant impact on both her mental and physical health.
5. The Landlord testified that there had been a noise complaint to which the police responded, beyond that he could offer no other information other than he had issued a notice to the other tenant alleged to have caused the disturbance.
6. LTB Guideline 3 explains that generally, costs will only be ordered by the Board where a party's conduct in the proceeding was unreasonable.
7. Based on the Landlord's above testimony, I am satisfied that the issues raised in the Tenant's application were not frivolous and vexatious, and had been addressed by the Landlord after the application was filed. Therefore, while it would have been preferable if the Tenant had taken steps to withdraw the applications before the most recent hearing, I

find do find that the Tenant acted unreasonably and costs as requested by the Landlord Representative are not warranted.

8. The Tenant then again requested that my final decision be subject to a confidentiality order and not posted to the Canadian Legal Information Institute (CANLII) website, citing the submissions she made prior to the hearing.
9. In *Toronto Star v. Attorney General (Ontario)*, 2018 ONSC 2586, the court held that the open court principle applies to adjudicative tribunals and creates a default right of public access to both hearings and records that relate to hearing, subject to limited exceptions. The *Tribunal Adjudicative Records Act* (“TARA”) obligates the LTB to make adjudicative records available to the public subject to limited exceptions, including statutory bars and confidentiality orders. Adjudicative records include orders issued by the LTB.
10. Having reviewed both the Tenant submissions for a confidentiality order along with the Landlord’s response, I am not satisfied the reasons submitted meet the legal test for a confidentiality order as set out in section 2(2) of TARA. Specifically, the Tenant’s submissions, including unsolicited post hearing submissions, discuss a general concern about risks to her privacy and a disagreement with the open court principle, but do not establish that that “intimate financial or personal matters or other matters contained in the record are of such a nature that the public interest or the interest of a person served by avoiding disclosure outweighs the desirability of adhering to the principle that the record be available to the public.”.
11. Furthermore, the Tenants submissions do not address why the hearing and subsequent adjudicative record should be exempt from the *Canadian Charter of Rights and Freedoms*, *Statutory Powers Procedure Act* (“SPPA”) and the *Tribunal Adjudicative Records Act* (“TARA”). Accordingly, for these reasons and those above I must deny the Tenant’s request.

**It is ordered that:**

5. The Tenants applications are dismissed.

**November 22, 2023**

**Date Issued**

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Kelly Delaney

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.