



## Order under Subsection 87(1) Residential Tenancies Act, 2006

**Citation:** Nikitopoulos v Temani, 2023 ONLTB 70463

**Date:** 2023-10-23

**File Number:** LTB-L-032271-23

**In the matter of:** D404, 275 LARCH ST  
WATERLOO ON N2L3R2

**Between:** Tula Nikitopoulos Landlord

**And**

Camelia Temani Tenant

Tula Nikitopoulos (the 'Landlord') applied for an order requiring Camelia Temani (the 'Tenant') to pay the rent that the Tenant owes.

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

The Landlord, the Tenant, and the Tenant's legal representative, Y. Bailey, attended the hearing.

### **Determinations:**

1. The Landlord filed an application alleging that the Tenant did not pay the total rent they were required to pay for the period from April 6, 2023 to July 31, 2023.
2. The lawful rent is \$790.00. It is due on the 1st day of each month.
3. The Tenant has not made any payments since the application was filed.
4. The parties dispute the actual date the Tenant moved out of the rental unit.
5. The Tenant alleges that she moved out of the rental unit on May 7, 2023, and that she informed the Landlord that was her intention by email on April 1, 2023. She submitted into evidence an email dated April 1, 2023, in which she informs the Landlord that she intends to move out because of the "unliveable" conditions in the rental unit related to a cockroach infestation.
6. The Landlord wrote that she did not accept the notice of termination because the tenancy agreement was for a one year term, ending on August 31, 2023.
7. The Landlord said that she only became aware that the Tenant moved out of the rental unit on August 3, 2023, when the Tenant gave her the keys. It is undisputed that the Tenant gave the keys back to the Landlord on August 3, 2023.
8. The Tenant did not submit any further evidence to support her contention that she moved out of the rental unit on May 7, 2023.



9. I find, on balance of probabilities, that the Tenant was in possession of the rental unit until August 3, 2023. Therefore, the date the Tenant moved out of the rental unit is August 3, 2023, when the Tenant gave back the keys to the rental unit to the Landlord. The Landlord waives any arrears owed for August 2023.
10. The Tenant seeks a rent abatement for a breach of the Landlord's duty of maintenance on the rental unit related to a cockroach infestation.
11. The Tenant had documentary evidence that she informed the Landlord about a cockroach infestation on March 27, 2023. She said that pest control came and sprayed on March 31, 2023. She said that they came again on April 3, 2023, to spray the same area. However, the Tenant said that the treatment was ineffective, and the problem got worse.
12. The Tenant claims a 50% rent abatement for March through May 2023, because of the Landlord's breach of her maintenance obligations with respect to the cockroaches.
13. The Landlord said that the building management is aware of a pest problem, and they continually maintain the building with pest control. She said that she received a report on April 6, 2023, stating that there was no live pest activity in the rental unit.
14. In accordance with section 20 of the *Residential Tenancies Act 2006* (the Act), "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."
15. As set out in the Landlord and Tenant Board's Interpretation Guideline 5, it is established law that it is not sufficient to establish that there was a maintenance issue. The Board must also consider whether the Landlord's response, once informed of the issue, was timely, appropriate and effective to remedy the problem. Where this is the case, the Landlord cannot be said to have been in breach of their section 20 obligation to maintain.
16. In this matter, it is undisputed that pest control was in the rental unit within a few days of the Tenant informing the Landlord. It was also the Tenant's evidence that pest control returned to the rental unit to carry out a second spray a few days later. The Landlord said that she received a report that there was no live activity in the rental unit as of April 6, 2023.
17. Consequently, I find that the Tenant has failed to prove, on a balance of probabilities, that there was a pest issue in the rental unit after April 6, 2023, which was about a week after she had first informed the Landlord. I find that the Landlord's response of sending in pest control for a spray, and then a follow up spray a few days later, was timely and appropriate. The Landlord's evidence is that the response was effective, since she received a report that there was no live activity approximately a week after having been informed of the problem. The Tenant did not present any documentary evidence at the hearing that the pest control was ineffective.
18. I find that the Tenant has failed to prove, on a balance of probabilities, that there was a breach of the Landlord's maintenance obligation, and she is therefore not entitled to a rent abatement.



19. The tenancy ended on August 3, 2023, as a result of the Tenant moving out of the rental unit. The Landlord waives August 2023 rent, so the Tenant's obligation to pay rent ends on July 31, 2023.
20. The rent arrears and daily compensation owing to July 31, 2023 are \$3,160.00
21. The Landlord collected a rent deposit of \$790.00 from the Tenant and this deposit is still being held by the Landlord. The rent deposit is applied to the arrears of rent because the tenancy is terminated.
22. Interest on the rent deposit, in the amount of \$16.45 is owing to the Tenant for the period from October 1, 2022 to July 31, 2023.
23. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

**It is ordered that:**

1. The Tenant shall pay to the Landlord \$2,539.55. This amount includes rent arrears owing up to July 31, 2023 and the cost of the application minus the rent deposit and interest owing.
2. If the Tenant does not pay the Landlord the full amount owing on or before November 3, 2023, the Tenant will start to owe interest. This will be simple interest calculated from November 4, 2023 at 7.00% annually on the balance outstanding.

**October 23, 2023**  
**Date Issued**

\_\_\_\_\_  
Nancy Morris  
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.