



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

**Citation:** Singh v Singh, Pathania & Kumar, 2023 ONLTB 66278

**Date:** 2023-10-10

**File Number:** LTB-L-005824-23

**In the matter of:** 19 Viceroy Crescent  
Brampton Ontario L7A1V6

**Between:** Amardeep Singh Landlord

**And**

Jaspreet Singh, Former Tenant  
Paras Pathania,  
Vinny Kumar,  
Rajat Pathania,  
Davinder Singh and  
Dalveer Singh

Amardeep Singh (the 'Landlord') applied for an order requiring Jaspreet Singh, Paras Pathania, Vinny Kumar, Rajat Pathania, Davinder Singh and Dalveer Singh (the 'Former Tenant') to pay the rent and daily compensation that the Former Tenant owes.

The Landlord also 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.

The Landlord also applied for an order requiring the Former Tenant to pay the Landlord's reasonable out-of-pocket costs that the Landlord has 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 August 24, 2023.

The Landlord's legal representative, Jordan Nieuwhof and the Landlord attended the hearing.

An agent for the Landlord's legal representative, Trish Kennedy, also attended the hearing.

A witness for the Landlord, Aman Singh, the Landlord's brother, attended the hearing.

**Determinations:**

1. I am satisfied that the Landlord served the Former Tenants with the application and Notice of Hearing in accordance with subsection 191(1.0.1) of the *Residential Tenancies Act, 2006* (the "Act") and Rules 3.3 and 5.8 of the LTB's Rules of Procedure. These documents were served on July 24, 2023 by email. The Landlord submitted into evidence a copy of the lease agreement that indicates all Former Tenants agreed to receive documents by email.
2. The Former Tenants vacated the rental unit on March 31, 2023. The Former Tenants gave notice to the Landlord on March 31, 2022 they had vacated the rental unit.
3. The application was filed within one year after the Former Tenants ceased to be in possession of the rental unit.

Rent and daily compensation owing

4. The lawful rent was \$2,600.00. It was due on the 18<sup>th</sup> day of each month.
5. Based on the monthly rent, the daily rent/compensation is \$92.05. This amount is calculated as follows: monthly rent x 12 months, divided by 365 days.
6. The Former Tenant has not made any payments since the application was filed.
7. The Former Tenant failed pay \$3,846.71 from January 18, 2022 to March 31, 2022.
8. There is no last month's rent deposit.
9. With the evidence before me I am satisfied the landlord has met the burden of proof to support his claim the tenant owes for arrears of rent. The total amount of arrears and costs owed to the Landlord is \$3,846.71.

Compensation for unpaid utility costs

10. The position of the Landlord is that the Former Tenants did not pay the utilities for the rental unit as agreed upon in the tenancy agreement.

11. The Landlord submitted a copy of the lease agreement into evidence to support his claim indicating the Former Tenant was responsible for the utilities the Landlord is claiming in the L10 application.
12. The Landlord also submitted copies of unpaid utility bills into evidence to support his claim.
13. I am satisfied with the evidence before me the Landlord has met the burden of proof to support his claim for the unpaid utilities the Former Tenant owes.
14. The total utilities the Tenant owes is \$5,097.86.

#### Compensation for Damage

14. The position of the Landlord is that the Former Tenant, another occupant of the rental unit or a person whom the Former Tenant permitted in the residential complex wilfully or negligently caused undue damage to the rental unit or residential complex.
15. The Landlord claim for damage is broken down as follows:
  - a. Garbage bag removal;
  - b. General cleaning of the rental unit;
  - c. Replacement of carpet;
  - d. Repairs to closet shelf;
  - e. Repairs to bedroom wall holes;
  - f. Repairs to kitchen cabinets;
  - g. Repair to broken dishwasher, clogged pipes;
  - h. Replacement of electrical fixtures;
  - i. Replacement of broken section of fence.

#### THE ACT

16. Section 89 of the Act states:

Application for compensation for damage

89 (1) A landlord may apply to the Board for an order requiring a tenant or former tenant to pay reasonable costs that the landlord has incurred or will incur for the repair of or, where repairing is not reasonable, the replacement of damaged property if,

(a) while the tenant or former tenant is or was in possession of the rental unit, the tenant or former tenant, another occupant of the rental unit or a person permitted in the residential complex by the tenant or former tenant **wilfully or negligently causes or caused undue damage** to the rental unit or the residential complex;

[emphasis added]

### Analysis

17. The standard of proof in proceedings before this Board is “proof on a balance of probabilities.” By that standard, the party bearing the burden of proof must show with evidence that, “more likely than not”, their assertions are true. Where, the evidence of the opposing party is as believable as that of the party bearing the burden of proof, that burden cannot be said to have been discharged.

### Garbage Bag Removal

18. The position of the Landlord is that the Former Tenant left garbage bags in the rental unit blocking the stairway to the downstairs basement.
19. The Landlord submitted photos to support his claim.
20. Section 89 allows a Landlord to apply to the Board for an order where a Former Tenant has willfully or negligently caused damage to the rental unit. In my view a collection of garbage bags in the rental unit does not constitute damage. While I acknowledge the number of bags left in the rental unit are substantial, this does not rise to the level of damage.
21. Further, I consider garbage removal and light cleaning to be within the normal course of doing business as a Landlord when one tenant leaves and another tenant will be occupying the rental unit.
22. Given the definition under the Act for damage, and for my reasons above I find on a balance of probabilities, the Landlord has met the burden of proof to support his claim for this portion of his application, and therefore costs for garbage removal are denied.

### General Cleaning

23. The position of the Landlord is that the Former Tenant left the rental unit in a state of uncleanliness and breached the Act in accordance with section 33.
24. The Landlord submitted photos to support this claim of the uncleanliness and an invoice for the work the company had completed.
25. In the photos there is debris left behind by the Former Tenant in the backyard and in the garage.
26. In my view I do not consider this type of clean up to constitute uncleanliness, nor do I consider this to be willful neglect or undue damage caused by the Former Tenant. While the Landlord may consider this to be an inconvenience it does not rise to the level of damage.
27. As I further stated in paragraph 20, I consider items shown in the photos to be light clean up that is part of the normal course of business a Landlord must undertake when renting out a rental unit and managing a rental complex.
28. With the evidence before me and on a balance of probabilities, and given the above I do not find the Landlord's claim for costs of clean up rise to the level of damage and therefore this portion of the Landlord's application is denied.

### Damaged Carpet

29. The position of the Landlord is that the Former Tenant willfully or negligently damaged the rental unit carpet to the extent the entire carpet needed to be replaced.
30. The Landlord submitted photos of one small section of the carpet on the rental stairs, where the carpet appears frayed and has separated from the wall.
31. Given that there is one photo of the carpet, and no other damage indicated to the rest of the carpet I am not persuaded by the Landlord's evidence and testimony that the entire carpet needed to be replaced. With only one photo, and lacking submissions on the condition of the rest of the carpet, I am unable to determine if the entire carpet needed to be replaced, or if the small section could have been repaired.
32. The Landlord testified he believed the Former Tenant's dog was responsible for the frayed carpet but I see no evidence of scratch marks on the wall adjacent to the frayed carpet. I

am unable to determine if the entire carpet needed to be replaced due to the alleged dog, or if the frayed carpet is a result of wear and tear.

33. With the evidence before me and on a balance of probabilities, I do not find the Landlord has met the burden of proof to support his claim for damage costs to replace the entire carpet due to a small frayed area, and there is no evidence to support willful neglect by the Former Tenant.
34. For the reasons above, the Landlord's claim for costs to replace the carpet is denied.

#### Repair to Closet Shelf and Kitchen Cabinets

35. The Landlord claims the Former Tenant willfully or negligently caused undue damage to a shelf in the rental unit, and to the cabinets in the kitchen of the rental unit.
36. The Landlord did not submit photographic evidence to support the claim of the damage to the shelf or the kitchen cabinets, caused by the Former Tenant.
37. The Landlord submitted an invoice from a company the Landlord hired to fix the shelf and the kitchen cabinets.
38. In the absence of any photos to show the extent of the damage, or potential cause, I am unable to determine if the damage caused to the closet shelf and cabinets is a result of willful neglect, or normal wear and tear.
39. As I am unable to determine the extent or cause of the damage this portion of the Landlord's claim is denied.

#### Repair Holes in Bedroom Walls

40. The Landlord claims the Former Tenant willfully or negligently caused undue damage to a wall in the rental unit.
41. The Landlord submitted photographic evidence to support his claim.
42. The photo shows a large hole indented into one of the walls of the rental unit. the photo shows the drywall is damaged in a size approximately four inches in diameter.
43. The Landlord also submitted a receipt for the repairs of the kitchen cabinets the closet shelf and the drywall repair in a total amount of \$590.00.

44. With the evidence before me, and on a balance of probabilities I'm satisfied the landlord has met the burden of proof to support his claim the Former Tenant caused willful or negligent damage to the rental unit.
45. Given that the repair for the drywall on the invoice is not separated from the cabinets or the closet shelf the request for the reimbursement cost for the drywall shall be calculated as follows:

Invoice \$590.00 / 3 = \$196.67 = HST \$25.57; total reimbursement \$222.24.

#### Clogged Dishwasher Pipes

46. The Landlord claims the Former Tenant damaged the rental unit dishwasher by clogging the pipes. The Landlord claims the pipes were clogged with food, resulting in the accumulation of mold.
47. The Landlord submitted an invoice from a company the landlord hired to fix the dishwasher.
48. The landlord did not provide any photographic evidence or any further evidence regarding the necessary repairs to the dishwasher.
49. The Landlord's lack of particulars and specific details regarding the damage to the dishwasher are such that I am not satisfied the Landlord has met that burden of proof to support his claim.
50. The single evidence submission of the invoice does not provide enough detail for me to determine if the damage was caused by the willful neglect of the Former Tenant or due to wear and tear, like food in the drain.
51. Given the above and with the evidence before me I find the landlords claim for the costs for the dishwasher repair is denied.

#### Landscaping

52. The Landlord claims the Former Tenant caused willful neglect to the rental unit yard. The Landlord claims he hired a professional landscaping company to repair the damage caused by the Former Tenant.

53. The Landlord submitted a copy of the tenancy agreement as evidence.
54. The landlord submitted a photo that shows the backyard with several items left behind by the Former Tenant.
55. Unless otherwise agreed to in the tenancy agreement in accordance with O.Reg 517/06 section 26, The landlord is responsible for the maintenance of any exterior common areas of the residential unit or residential complex.
56. I see no indication in the tenancy agreement that the tenants were required to maintain the exterior common areas of the residential unit.
57. Further with the photographic evidence before me I see no indication the tenant willfully or negligently caused undue damage to the yard of the residential unit.
58. With the evidence before me and on a balance of probabilities I find the landlord has not met the burden of proof to support his claim the Former Tenant caused willful or negligent damage to the rental unit backyard.
59. Given the above I find the landlords claim for landscaping costs does not constitute damage and therefore the Landlord's claim for the reimbursement of landscaping costs is denied.

#### Damaged Fence

60. The Landlord submitted a photograph of the fence that he claims the Former Tenants damaged. The photo shows a section of fence that has been knocked over and is lying on the ground in the rental unit yard. The Landlord testified the Former Tenants had a large dog and it was likely the dog knocked the fence over.
61. The Landlord testified he and the neighbour moved the fence to the Landlord's rental unit yard so it was not lying in the neighbour's yard. The Landlord testified he did this when he attended the rental unit a few days after the Former Tenants had vacated.
62. The Landlord testified he asked his brother, Aman Singh, to go to the rental unit on March 31, 2022 because the Landlord was unable to do so.
63. The Landlord witness testified he attended the rental unit the day the Former Tenants vacated the rental unit and found the fence knocked inward on the rental unit yard, as indicated in the photo.
64. The witness testified he was the first one at the rental unit before the Landlord, and he did not move the fence.



65. The testimony given by the Landlord and the witness is problematic in that their testimony is conflicting in their details regarding the fence. The Landlord claims he moved the fence to his rental unit yard the day he attended the rental unit, while the witness, who attended the rental unit on behalf of the Landlord and before the Landlord attended the rental unit, testified the fence was knocked inward to the rental unit yard, as indicated in the photo.
66. Given the conflicting details in the Landlord and the witness testimony, I am unable to make a determination on the cause of the damaged fence. I find the Landlord has not met the burden of proof to support his claim and therefore the damage fence portion of the application is dismissed.
67. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.
68. There is no last month's rent deposit.
69. 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.
70. 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 \$3,846.71 for the rent arrears owing for the period from January 2022 to March 2022.
2. The Former Tenant shall pay to they Landlord \$5,097.86 for the unpaid utilities the Former Tenant was responsible to pay under the tenancy agreement.
3. The Former Tenant shall pay to the Landlord \$222.24 for the costs the Landlord incurred as a result of wilful damage the Former Tenant caused to the rental unit.
4. The Former Tenant shall pay to the Landlord \$201.00 for the cost of filing the application with the Board.
5. The total amount the Former Tenant owes the Landlord is \$9,367.81.
6. If the Tenant does not pay the Landlord the full amount owing on or before October 21, 2023, the Tenant will start to owe interest. This will be simple interest calculated from October 22, 2023 at 7.00% annually on the balance outstanding.

**October 10, 2023**

**Date Issued**

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Greg Brocanier  
Member, Landlord and Tenant Board

15 Grosvenor St, 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.