



## Order under Section 31 Residential Tenancies Act, 2006

Citation: Macfarlane v Basra, 2023 ONLTB 56825

Date: 2023-08-16

File Number: LTB-T-069686-22

**In the matter of:** Main Floor, 169 Pinehurst Drive North  
akville Ontario L6J4W7

Tenant

**Between:** Peter Macfarlane

**And**

Dalbir Basra

Landlords

Peter Macfarlane (the 'Tenant') applied for an order determining that Dalbir Basra (the 'Landlords'):

- Substantially interfered with my reasonable enjoyment of the rental unit or complex or the reasonable enjoyment of a member of my household. (the T2 Application)
- failed to meet the Landlords' maintenance obligations under the *Residential Tenancies Act, 2006* (the 'Act') or failed to comply with health, safety, housing or maintenance standards. (the T6 Application)

These applications were heard by videoconference on;

- October 20, 2021 and adjourned at the request of the Tenant to obtain legal counsel
- February 22, 2022 and adjourned due to lack of time to complete
- August 22, 2022 and adjourned at the request of the Tenant in order to attend to another legal matter
- June 28, 2023.

The Landlords, represented by Edwin Alexander, a licensed Paralegal, and the Tenant attended the hearing.

The Tenant was represented by Daisy Yordanova, a licensed Paralegal, at the February 22, 2022 and August 22, 2022 hearing however Ms. Yordanova wrote to the Board on June 12, 2023 advising that she no longer is representing the Tenant.

### Determinations:

1. The parties agree that the Tenant was evicted from the rental unit on August 28, 2019.

Statutory Limitation

2. The Tenant filed the applications on October 27, 2020. Although the Residential Tenancies Act 2006 (the "Act") section 29 (2) states that

"No application may be made under subsection (1) more than one year after the day the alleged conduct giving rise to the application occurred."

However, the Emergency Order Management and Civil Protection Act suspended limitation periods retroactive to March 16, 2020 and until September 11, 2020, in effect extending the limitation periods by about 179 days, hence in this case, the applications being filed October 27, 2020 met the statutory requirements.

To clarify, the Tenant meet the requirements to file the application, however particular circumstances and or events, as discussed in detail below, are adjudicated on their own particular merit and may or may not meet the requirements discussed in this section.

## **T2 - Application**

### **Tenant submissions**

3. The Tenant alleges that someone entered his unit on July 23-26, 2019. The Tenant did not make any submissions regarding the entry.
4. The Tenant alleges that there were water leaks, cold air and mold in the kitchen area between April 2018 to July 2019. These issues are maintenance issues that have been raised in further detail in the T6 Application and will be addressed in that portion of the order.
5. The Tenant alleges
- a) that there was no washing machine from April 2018 to July 2019
  - b) that the Landlord made an application to evict him pursuant to a N12 Notice
  - c) that the Landlord made an application to evict him pursuant to an N7 Notice
  - d) that the basement tenant was permitted to turnoff the air conditioning during the summers of 2017, 2018 and 2019
  - e) that he could not access additional heat during the winters of 2018 and 2019
  - f) that the basement tenant was permitted to withhold hot water at whatever time
6. The Tenant sought the following remedies
- a) Remedy #1 - \$10,000.00 for multiple serious deficiencies
  - b) Remedy #3 – to move the thermostat to the main floor  
Repair ceiling hole

Remove black mold  
Stop recreational drug odour (smoke) from occurring in the basement area

- c) Remedy #5 – replace broken TV and 17” HP laptop - \$3,000.00
- d) Remedy #6 \$2,400.00 for rent differential
- e) Remedy #7 - \$2,000.00 for moving expenses

### Landlord’s Submissions

- 7. The Landlord’s representative submitted a copy of Landlord and Tenant Board order, SOL-060096-19, issued by Member Sean Henry on July 20, 2019. The order confirms that the Tenant was evicted for non-payment of rent.
- 8. The Landlord’s representative submitted a copy of a Landlord and Tenant Board Mediation Agreement signed by the parties on November 2, 2018
- 9. One of the provisions of the agreement was that either party may apply to reopen the agreement, within one year, if any of the terms are not met.

### T6 – Application

#### Tenant’s submissions

- 10. As a result of a falling tree in April 2018, that came through the roof of the Tenant sought the following remedies.
  - a) Remedy 1 – a rent abatement of \$10,000.00
  - b) Remedy 2 – costs to replace a flat screen Tv and a HP 17” Laptop - \$3,05100
  - c) Remedy 3 – out of pocket expenses of \$1,000.00
  - d) Remedy 4 – repairs to the roof and gas system - \$3,000.00
  - e) Remedy 6 – remove black mold in the rental unit
  - f) Remedy 9 – reverse the eviction order – Tenant was evicted

### Residential Tenancies Act 2006

11. Section 29 (2) states that

“ No application may be made under subsection (1) more than one year after the day the alleged conduct giving rise to the application occurred.”

## T2 Application

12. The Tenant alleges that there was no washing machine from April 2018 to July 2019. This issue was previously settled via the mediation order dated November 2, 2018. However, the Landlord submitted that washer/dryer was replaced by April 1, 2019. As per the provision of the mediation order allow for the revisiting of the agreement up to one year after the agreement came into force the Tenant having only pursued this issue well after he was evicted leads me to me assess the credibility of the parties. For this particular issue I prefer the submissions of the Landlords that the issue was settled appropriately.
13. Regarding the issue “that the Landlord made an application to evict him pursuant to a N12 Notice.” Landlords may issue notices from time to time which may or may not be correct; in this particular situation no submissions were made that indicate that the Landlord pursued an application, accordingly there is nothing to decide.
14. The Tenant alleges that the Landlord made an application to evict him pursuant to an N7 Notice. As per paragraph 13 the Landlords may have served a Notice, however since the Landlord did not pursue an application there is nothing further to adjudicate in relation to this particular allegation.
15. The Tenant alleges that the basement tenant was permitted to turnoff the air conditioning during the summers of 2017, 2018 and 2019. This allegation is vague. No evidence or testimony was received in relation to this allegation.
16. The Tenant alleges that he could not access additional heat during the winters of 2018 and 2019. This allegation is also vague. No testimony and or supporting documents were provided that support that the heat was insufficient or not accessible.
17. The Tenant alleges that the basement tenant “was permitted to withhold hot water at whatever time.” As no particulars were provided, the Landlord could not be reasonably required to reply to this allegation.

## T6 Application

18. As the Tenant’s application is based on an incident that took place in April 2018, a specific date was not provided in the application. As this application was filed past May 1, 2019, if the Board were to accept that the incident took place April 30, 2018, it is more that one year as specified in section 29 of the Act, accordingly the Board cannot adjudicate any matters that are statute barred.

## Analysis

19. As explained above, the Tenant did not prove the allegations contained in the applications and or the matters that he was alleging are statute barred and cannot be adjudicated by the Board. Therefore, I have no choice but to dismiss the applications.

**It is ordered that:**

1. The Tenants' applications are dismissed.

**August 16, 2023**

**Date Issued**

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**Peter Pavlovic**

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.

2023 ONLTB 56825 (CanLII)