



**Order under Section 69 and 89  
Residential Tenancies Act, 2006**

**Citation:** Radhika Dungrani v April Solomon, 2023 ONLTB 46401

**Date:** 2023-07-10

**File Number:** LTB-L-028671-22

**In the matter of:** B, 122 REA STREET SOUTH TIMMINS  
ON P4N3R2

**Between:** Radhika Dungrani Landlords  
Mahesh Kumar Dungrani

**And**

April Solomon Tenant

Radhika Dungrani and Mahesh Kumar Dungrani (the 'Landlords') applied for an order to terminate the tenancy and evict April Solomon (the 'Tenant') because the Landlords in good faith require possession of the rental unit for the purpose of residential occupation for at least one year for a person to provide care services for the Landlords' children. 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 have 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.

This application was heard by videoconference on June 13, 2023. The Landlords and the Landlords' representative, Claire Dutrisac, attended the hearing. As of 11:18 am., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

**Preliminary Issues:**

1. The Landlord's representative submitted that Mahesh Kumar Dungrani also owns the rental unit and therefore should be added to the application as a Landlord. I granted the Landlords' request to amend their L2 application accordingly.

2. The Landlords requested that file LTB-L-061318-22, that includes an L1 application for rent arrears, and an L2 application for damage to the unit, also be heard with this L2 application for the Landlords' own use of the unit and compensation for out-of-pocket expenses.
3. I advised that Landlords that the two applications were not part of the hearing docket for the videoconference on June 13, 2023, and I was not prepared to hear these matters together. The Landlords elected to continue with the hearing for LTB-L-028671-22 only.

**Determinations:**

1. As explained below, the Landlords have not proven on a balance of probabilities the grounds for termination of the tenancy; however, the Landlords have proven the claim for compensation for out-of-pocket expenses of \$5,000.00 in the application.
2. The residential complex is a single detached two storey home with the Landlords residing in unit A, the main floor and the basement, and the Tenant residing in unit B, the secondfloor upstairs unit.
3. The Tenant was in possession of the rental unit on the date the application was filed and remains in possession of the unit on the day of the hearing.

**N12 Notice of Termination**

4. On April 1, 2022 the Landlords served the Tenant with an N12 Notice of Termination with a termination date of June 1, 2022. The N12 seeks termination of the tenancy because the Landlords require possession of the rental unit for the purpose of residential occupation for at least one year for their nephew, Senil Gabani, to provide care services for the Landlords' children.
5. The N12 must be served pursuant to s.48(2) of the *Residential Tenancies Act, 2006* (the "Act"), which states:

The date for termination specified in the notice shall be at least 60 days after the notice is given and shall be the day a period of tenancy ends or, where the tenancy is for a fixed term, the end of the term.

6. The Landlords testified that this is a month-to-month tenancy, and the monthly rent of \$900.00 is due on the 1<sup>st</sup> day of each month.
7. The N12 in this case does not comply with s. 48(2) of the Act as the termination date of June 1, 2022 does not coincide with the last day of the monthly rental period. As rent is due on the 1<sup>st</sup> day of each month, the termination date must be the last day of the month – the last day of the monthly rental period in this tenancy. For the N12 to be valid, May 31, 2022 would have been the earliest date of termination to comply with s. 48(2) of the

Act. I therefore find that the N12 Notice is defective, and I am unable to consider a termination of the tenancy pursuant to s. 69(1) of the Act.

8. The Landlords' L2 application may however be considered for compensation for out-of-pocket expenses, pursuant to s. 89(1) of the Act. The Landlords requested that the Board proceed with the Landlords' L2 application for compensation for out-of-pocket expenses only. I granted the Landlord's request.

### **Compensation for Damages**

9. The Landlords testified that they will incur out-of-pocket expenses of \$5,500.00 to repair damage to the unit that includes damage to the main entry door, upstairs bedroom entry and closet door, exterior siding, washroom floor and toilet, and living room flooring.
10. Main Entry Door: The Landlords provided two photos of the unit entry door taken by them in April 2022. The photos illustrate excessive dents and scratches on the door itself and the associated door jamb. The door lock is missing. The Landlords submitted a repair estimate from a contractor for \$1,900.00, but this estimate did not include the damaged door lock. The Landlords estimated the repair costs would be approximately \$2,500.00.
11. Bedroom Entry and Closet Door: The Landlords provided a photo taken by the Tenant on September 12, 2021 of a damage free bedroom entry door and closet door. The Landlords provided a second photo, taken by them in May 2022, of a heavily damaged bedroom entry door and a missing closet door. The Landlords estimated that the cost to replace these two doors would be approximately \$500.00.
12. Exterior Siding: The Landlords testified that new exterior siding was installed on the residential complex in 2021. The Landlords submitted two photos taken by them in January 2022 of significantly scraped, dented, and gouged siding along the access to the unit's entry door. The Landlords believed that the damage occurred when the Tenant's washer and dryer were moved to the upstairs unit along the exterior staircase. The Landlords provided a contractor's estimate, dated October 10, 2022 to repair the siding at a cost of \$600.00, but the Landlords are claiming \$250.00 for this repair.
13. Washroom Floor and Toilet: The Landlords provided a photo taken by the Tenant on September 12, 2021 of a damage free washroom in good to excellent condition. The Landlords provided a second photo of the washroom, taken by them in May 2022, of a broken toilet seat and missing floor covering. The Landlords estimate that the cost to repair the washroom damage is approximately \$250.00.
14. Living Room Floor: The Landlords provided two photos taken by the Tenant on September 12, 2021 of a living room plank-vinyl flooring in good condition. The Landlords testified that the Tenant advised them in May 22 that she was replacing the flooring herself as a result of damage from water and from a dog. The Landlords asserted that they did not consent to the floor replacement and advised the Tenant accordingly; however, the Tenant proceeded with the replacement. The Landlords provided four photos of the

damaged, partially installed, and mostly missing floor, taken by them in June 2022, and again on March 19, 2023. The Landlords also submitted a contractor's estimate, dated October 1, 2022, to repair the flooring at a cost of \$2,000.00.

Analysis

15. On the basis of the Landlords' uncontested evidence, I am satisfied that the Tenant, another occupant of the rental unit or a person whom the Tenant permitted in the residential complex wilfully or negligently caused undue damage to the rental unit or residential complex, to include: damage to the main entry door; bedroom entry and closet door; exterior siding; washroom floor and toilet; and the living room floor – as detailed in paragraphs 10 through 14 above.
16. On the basis of the Landlords' uncontested evidence, I find that the total repair cost of \$5,000.00 for these damaged unit items is appropriate and reasonable, and that the Landlords will incur this cost to repair the damaged property. I accept the Landlords' repair estimates for the damages, with the exception of the front door repairs. For the front door, I used the contractor's repair estimate of \$1,900.00 and added \$100.00 for the missing lock, for a total of \$2,000.00 rather than \$2,500.00 for the cost of the front door repair.
17. The Landlords also incurred a cost of \$186.00 for filing the application and are entitled to reimbursement of this cost.

**It is ordered that:**

1. The Tenant shall pay to the Landlords \$5,000.00, which represents the reasonable cost of repairing 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 of \$5,186.00 on or before July 21, 2023, the Tenant will start to owe interest. This will be simple interest calculated from July 22, 2023 at 6.00% annually on the balance outstanding.

**July 10, 2023**

**Date Issued**

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Frank Ebner

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.

