



**Order under Section 31
Residential Tenancies Act, 2006**

Citation: Poirier v Grecco, 2023 ONLTB 37882

Date: 2023-05-19

File Number: LTB-T-034749-22

In the matter of: 3354 Innes Road
Orleans Ontario K1C1T1

Between: Robert Poirier Tenant

And

Gas Grecco Landlord

Robert Poirier (the 'Tenant') applied for an order determining that Gas Grecco (the 'Landlord') entered the rental unit illegally, substantially interfered with his reasonable enjoyment of the rental unit and the residential complex, and harassed, coerced, obstructed or interfered with him.

This application was heard by videoconference on March 23, 2023.

The Landlord and the Tenant attended the hearing.

Determinations:

1. As explained below, the Tenant has failed to prove, on a balance of probabilities, that the Landlord entered the rental unit illegally, substantially interfered with his reasonable enjoyment of the rental unit and the residential complex, or harassed, obstructed, coerced, or interfered with him.
2. The Tenant filed his T2 application over six months after he moved out of the rental unit. The application contained a number of allegations about how the Landlord had breached his Tenant rights. Every allegation, except one, cited an incident that occurred over a year prior to the date the Tenant filed his application.
3. Subsection 29(2) prohibits a Tenant from making an application for breach of Tenant rights more than one year after the day the alleged conduct giving rise to the application occurred.
4. Consequently, I was only able to consider the Tenant's allegation about an incident that occurred on April 27, 2021.
5. The rental unit is in the basement of a building shared with the Landlord. The Landlord lived upstairs from the Tenant.
6. The Tenant alleges that, on April 27, 2021, the Landlord's brother insulted him and threatened to get him to leave. He said that he heard a lot of noise on that night, and he

texted the Landlord to ask him whether there was a party, and he overheard the Landlord's brother saying, "I know how to get the little c__sucker to leave."

7. The Tenant said that the Landlord responded to his text by informing him that the Landlord's brother is loud.
8. The Tenant said that he had asked the Landlord to carry out some maintenance, and the Landlord responded to the request by constantly blasting his TV. The Tenant said that the constant noise affected his mental health. He said that the noise affected his sleep, and his work for which he had to get up early in the morning.
9. The Tenant said that he perceived the constant noise as harassment, it was getting more extreme, and he thought the Landlord was trying to get rid of him.
10. The Tenant submits that the Landlord's noise and harassment led him to leave, and he felt pushed out the door. He requests a rent abatement, as well as gas and moving expenses.
11. The Landlord said that his brother visits about two times per year for a few hours. He said that he remembered a discussion with the Tenant about the TV being loud, and he said that he would always turn the TV down when the Tenant asked him.
12. The Landlord said that the residential complex is on a 4 lane, noisy, road, and it is difficult to hear the TV at all, at times. He said that he always turned it down when asked, and he was sometimes obliged to read the captions because he could not hear anything. The Landlord said that he believes the Tenant was gratuitously complaining about the TV. He said that he once kept the volume the same, and then asked the Tenant if the noise improved and the Tenant told him yes. He also said that he offered to turn it down and then go downstairs to do a test, but the Tenant refused.
13. The Landlord said that at the time the Tenant moved out of the rental unit, the Landlord had been receiving constant complaints from the Tenant, and he informed the Tenant that there were clearly unresolvable issues between them, and he was free to leave at any time.
14. The Landlord submits that he did not push the Tenant to leave. He submits that they had a fine relationship for a while, until the Tenant had a stroke. He submits that he came to an impasse with the Tenant over the complaints about the TV volume, and they never managed to return to good relations.
15. The Tenant did not have any recordings of the noise.

Reasons and Analysis:

16. It is undisputed that the parties had a lot of disagreements about noise in the last few months of the tenancy. There was documentary evidence of text exchanges between the parties arguing about the noise, particularly the Landlord's TV.
17. The Tenant repeatedly asked the Landlord to reduce the volume on his TV. The Landlord's evidence is that he constantly turned down the volume on his TV, sometimes to a point where he could not hear it, or he required the captions to understand what was going on.

18. Noise is very subjective, and the parties completely contradict each other in terms of what exactly was the level of noise in the rental unit. Therefore, I find that it is impossible to conclude that the Tenant has proved, on a balance of probabilities, that the TV volume was excessive, above the level of every day living, especially in the absence of any recordings. The Tenant did not provide details about the time of day or night of the noise. The residential complex is located on a busy, 4 lane major street, which would inevitably be quite noisy as well. It is quite plausible that the Landlord found it difficult to find the right level of volume in his TV to hear it above the street noise, and to also have it at a level that pleased the Tenant.
19. The Tenant had lived in the rental unit for about three years prior to these disagreements, and there was no other evidence to suggest that the Landlord was purposely trying to harass the Tenant to leave his unit. The alleged statement made by the Landlord's brother was heard by the Tenant through a wall and downstairs. It is, therefore, not reliable. Even if the Landlord's brother said what the Tenant reported, it is not evidence of a pattern of harassment to get the Tenant to move out of the rental unit.
20. Consequently, I find that the Tenant has failed, on a balance of probabilities, to prove that the Landlord substantially interfered with his reasonable enjoyment of the rental unit or the residential complex, and his application will be dismissed.

It is ordered that:

1. The Tenant's application is dismissed.

May 19, 2023
Date Issued

Nancy Morris
Member, Landlord and Tenant Board

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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.