



## Order under Section 31 Residential Tenancies Act, 2006

**Citation:** Wang v Zhao, 2023 ONLTB 14204

**Date:** 2023-01-11

**File Number:** LTB-T-056726-22

**In the matter of:** 176 MACEDONIA CRES  
MISSISSAUGA ON L5B3J5

**Between:** Xinru Zhao Landlord

**And**

Ruichen Wang Tenant

Ruichen Wang (the 'Tenant') applied for an order determining that Xinru Zhao (the 'Landlord'):

- entered the rental unit illegally.
- altered the locking system on a door giving entry to the rental unit or residential complex without giving the Tenant replacement keys.
- substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenant or by a member of the Tenant's household.
- harassed, obstructed, coerced, threatened or interfered with the Tenant.
- withheld or interfered with the Tenant's vital services or care services and meals in the care home.

This application was heard by videoconference on November 7, 2022.

The Landlord and the Tenant attended the hearing. Mingli Qu attended as interpreter and Yuyang Chen attended as witness for the Tenant.

Preliminary issues:

1. The Tenant is seeking his last month rent deposit and key deposit but these issue are not properly before me. Information was given to assist the parties with respect to both the Landlord and Tenant rights. The Tenant may choose to seek legal advice and file a T1 application if the parties cannot resolve the issue independently.
2. The Tenant also wanted to raise other issues about the Landlord's conduct that arose after the application was filed which was denied. The Tenant did not amend his application before the hearing, nor was an amended application served to the Landlord or filed with the Board as required under Rule 15 of the Board's Rules of Procedure. As such they were not considered.

**Determinations:**

3. As explained below, the Tenant has proven on a balance of probabilities some of the allegations contained in the application.

#### Illegal entry

4. The Tenant referred to one incident on October 2, 2022, stating the Landlord entered his unit when he didn't answer his door. The Landlord refuted the claim and the Tenant's witness gave no evidence about the alleged entry to corroborate the Tenant's testimony. The T2 application was filed one day after this alleged incident and makes no reference of this specific incident. The Tenant rents one bedroom in the residential complex and shares the common areas with other tenants and did not prove the Landlord entered his unit (bedroom) illegally.
5. There's no dispute the Landlord enters the residential complex daily to clean the common areas. The common areas are shared with other tenants as the residential complex operates as a rooming house. There's no notice required under the Act to be given to the tenant since the Landlord is entering the complex to upkeep and maintain cleanliness of the common areas which is part of her maintenance responsibility under section 20 of the Act.
6. I find that the Landlord did not enter the rental unit illegally.

#### Altered locks

7. The Tenant states the Landlord placed a lock on the thermostat and the Landlord did not give him a key. Section 29 (5) of the Act, states if a landlord alters the locking systems on a door giving entry to the rental unit or the residential complex or caused a locking system to be altered during the tenant's occupancy of the rental unit the Landlord must give the tenant replacement keys. The locking device on the thermostat is not contemplated under section 29(5) of the Act. There was no evidence led that the Landlord altered the locking system to the Tenant's unit (bedroom) or the main entrance door of residential complex.
8. Therefore, I find that Landlord did not alter the locking system on a door giving entry to the rental unit or residential complex without giving the Tenant replacement keys.

#### Substantial interference and harassment

9. The Landlord does not dispute that she told the Tenant he was not permitted guests to stay in the rental unit unless he pays an additional \$400 per month. According to the Landlord, the Tenant agreed to pay an includes utility costs. The Landlord did not issue a notice of termination and follow due legal process to protect her own interests instead she told the Tenant to move out when he refused to pay the rent increase. The Landlord texted the Tenant on October 1, 2022 that he needs to move out by the end of the October 2022. On October 2, 2022 the Landlord again spoke to the Tenant about his girlfriend, telling him he needed to vacate.

10. There's nothing in the Act that prevents a tenant from having an occupant or guest stay in the rental unit. Therefore, I find that Landlord substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenant or by a member of the Tenant's household.
11. The Landlord unilaterally attempted to change the terms of their agreement and terminate the tenancy without following due legal process. The Landlord's actions were unwelcomed and a forced attempt to terminate the tenancy after the Tenant attempted to exercise his rights under the Act when he refused to pay the rent increase. Therefore, I also find that Landlord, harassed, obstructed, coerced, threatened or interfered with the Tenant.
12. The Tenant moved into the unit on September 28, 2022 and filed his application on October 3, 2022. The Landlord asked the Tenant to vacate on October 1, 2022 and the Tenant vacated on or around October 28, 2022. The Tenant in his application is seeking an order terminating the tenancy on October 31, 2022 which is reasonable under the circumstances.

#### Withheld or interfered with vital services or care services

13. The Tenant states that the Landlord has withheld and interfered with the reasonable supply of a vital service of heat because the temperatures in the unit was cold. The Tenant also stated the temperature was 20 degrees outside and stated it was 18 degrees inside his rental unit. The Tenant's witness also testified the temperatures in his room was cold but also states he had to sleep with the window open at night. Two photographs taken October 5 and 21, 2022 show temperature reading of 21 degrees on the thermostat which was after the T2 application was filed. There were no photographs or record of temperature readings in the Tenant's unit leading up to the date the T2 application was filed. The photographs of the temperature readings that were provided corroborates the Landlord's testimony that the temperature on the thermostat is maintained at 21 degrees.
14. The Act defines a vital service to include heat from September 1 to June 15, in most cases a minimum temperature of 20 degrees Celsius as set out in Section 4 of O.Reg. 516/06) of the Act. Therefore, based on the best evidence before me I find the Landlord did not withhold or interfere with the Tenant's vital services or care services and meals in the care home.
15. The issue with respect to the discontinuance of free laundry facility is not a vital service contemplated under section 21 of the Act. An application has not been made under section 130 of the Act.

#### It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated on October 31, 2022.
2. The Landlord shall pay the Tenant \$48.00 for the cost of the application.

3. If the Landlord does not pay the Landlord the full amount owing on or before January 22, 2023, the Landlord will start to owe interest. This will be simple interest calculated from January 23, 2023 at 5.00% annually on the balance outstanding.
4. The Tenant has the right, at any time, to collect the full amount owing or any balance outstanding under this order.

**January 11, 2023**  
**Date Issued**

\_\_\_\_\_  
Sandra Macchione  
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.