



**Order under Section 30, 31, & 69  
Residential Tenancies Act, 2006**

**Citation:** Kamche v Kalala, 2022 ONLTB 13750

**Date:** 2022-12-07

**File Number:** LTB-L-060117-22  
LTB-T-015861-22

**In the matter of:** 406, 4062 LAWRENCE AVE E  
SCARBOROUGH ON M1E4V5

**Between:** Marie Kamche Landlord

**And**

Patricia Kalala Tenant

LTB-L-060117-22 (L1)

Marie Kamche (the 'Landlord') applied for an order to terminate the tenancy and evict Patricia Kalala (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

LTB-T-015861-22 (T2/T6)

These applications were heard by videoconference on December 1, 2022.

The Landlord's Legal Representative, Agatha Small, the Landlord and the Tenant attended the hearing.

The services of French Languages Interpretation was provided by Manual Costa.

**Determinations:**

Preliminary Issue:

1. The Tenant applications were first heard on September 22, 2022. The parties agreed to proceed in English as the preponderance of submissions were in English but did request an interpreter be available if needed when referencing any submissions in French.
2. It was uncontested that the Tenant had taken over the lease from the former Tenant, on the consent of the Landlord. The parties did not enter into a new lease agreement. The lease agreement term with the former Tenant ended on February 28, 2022.
3. The Landlord did not bring an application to the Board within 60 days of the end of the sub-tenancy.

4. Therefore, I was satisfied that based on section 101(2) of the Residential Tenancies Act (the 'RTA') that Patricia Kalala is a Tenant.

L1 Application:

5. The Landlord served the Tenant with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). The Tenant did not void the notice by paying the amount of rent arrears owing by the termination date in the N4 Notice or before the date the application was filed.
6. As of the hearing date, the Tenant was still in possession of the rental unit.
7. The lawful rent is \$1,960.00. It is due on the first day of each month.
8. Based on the Monthly rent, the daily rent/compensation is \$64.44. This amount is calculated as follows: \$1,960.00 x 12, divided by 365 days.
9. The Tenant has not made any payments since the application was filed.
10. The rent arrears owing to December 31, 2022 are \$11,760.00.
11. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
12. There is a last month's rent deposit of \$1960.00. It was collected on July 15, 2021. There has been no interest paid on the deposit.
13. The Tenant indicated that they had applied to a local rent bank for assistance and that if supported by the rent bank that they would be able to pay the balance of arrears. The Tenant proposed a payment plan as a sign of good faith that the Landlord agreed with.
14. The Tenant understood that if the payments as agreed were not made on time and in full that the Landlord could apply to the Board on an ex parte basis for an order to evict the Tenant.
15. The delay to January 3, 2022 reflects that January 2, 2022 is a statutory holiday. The delay to after the holidays was on consent, given the commitment of the Tenant to make payments in the interim.
16. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would not be unfair to postpone the eviction until January 3, 2023 pursuant to subsection 83(1)(b) of the Act.

T2/T6 Application:

17. On consent of the parties, I took notice of the Tenant submissions in this file, and permitted the parties to proceed by cross examination and respond to the allegations.

T6 Application:

The Tenant applied for an order determining that the Landlord failed to meet the Landlord's maintenance obligations under the *Residential Tenancies Act, 2006* (the 'Act') or failed to comply with health, safety, housing or maintenance standards.

18. In the T6 application the Tenant alleged the following:
  - a. the Landlord permitted the Tenant to repaint the unit and that the Landlord would reimburse the tenant the cost of the paint;
  - b. the air conditioning did not work on the main floor;
  - c. the heat did not work on the main floor;
  - d. missing door handle for master bedroom bathroom;
  - e. fridge was damaged;
  - f. main door peephole did not work
19. It was uncontested that the heating and air conditioning had been repaired by May 2022.
20. It was uncontested that the remaining items had not been repaired.
21. It was also uncontested that the Tenant had denied access to the Landlord entry to the rental unit to inspect the damages.
22. Paint. I am satisfied that there was an intent to reimburse the Tenant the cost of the paint. Based on the receipts provided to the Board, the total cost of paint is \$610.06. This amount shall be ordered reimbursed.
23. The Tenant is seeking an order that the Landlord repair the remaining items.

## T2 Application

The Tenant applied for an order determining that the 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.
  - harassed, obstructed, coerced, threatened or interfered with the Tenant.
24. Specifically, the Tenant alleges that the Landlord engaged in a pattern of harassment in relation to the termination of the lease agreement, vacating the rental unit, all of which interfered with the reasonable enjoyment of the rental unit by the Tenant.
  25. The Landlord served an N12 notice of termination on the Tenant. The Board has previously found that this does not constitute harassment.
  26. It is alleged that the Tenant gave notice to vacate at the end of February 2022 and subsequently withdrew that notice. This is the subject of a different application at the Board.

27. The Tenant alleges that the Landlord disconnected the Internet which had been included in the monthly rent as of March 4, 2022 and that this remained disconnected as of the hearing date.
28. The Tenant alleged that the door and garage fobs had been deactivated on March 9, 2022. It was uncontested that the Landlord had one door fob and the garage fob reactivated.
29. The Landlord testified that deactivating the fobs had been pre-arranged with the Condo authority per the condo by-laws when a Tenant had given notice to vacate. The Landlord did not explain why this was not cancelled once the Tenant indicated the Tenant would remain in the rental unit.
30. The Landlord also testified that even if the fobs did not work, the Tenant did not lose access to the rental unit, as the door key was still in possession of the Tenant.
31. I am satisfied on a balance of probabilities that the Landlord engaged in conduct that was intended to compel the Tenant to vacate the rental unit, without obtaining an order from the Board.
32. The Tenant is asking the Board to issue a fine to the Landlord for this conduct.
33. I have reviewed Guideline 16, Administrative fines, and I am not satisfied that there are circumstances here that warrant a fine. The purpose of a fine is to encourage compliance with the Act, and to deter Landlords from engaging in similar conduct in the future. I am not satisfied that there is a risk that this Landlord would engage in similar conduct and therefore I am declining to order a fine.
34. The Tenant is also seeking compensation in an amount equal to a year of rent.
35. I am not satisfied that there are circumstances in this case that warrant compensation anywhere near 100% of rent. I am satisfied that an award at the low end is appropriate as a result of deactivating the fobs and other conduct of the Landlord. In all the circumstances, I am satisfied that an award of \$200.00 is appropriate. This shall be ordered.

**It is ordered that:**

L1 Application:

1. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.
2. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
  - \$11,087.94 if the payment is made on or before December 31, 2022. See Schedule 1 for the calculation of the amount owing.

**OR**

- \$13,047.94 if the payment is made on or before January 3, 2023. See Schedule 1 for the calculation of the amount owing.
3. The Tenant may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenant has paid the full amount owing as ordered plus any additional rent that became due after January 3, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.
  4. **If the Tenant does not pay the amount required to void this order the Tenant must move out of the rental unit on or before January 3, 2023**
  5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$10,050.44. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.
  6. The Tenant shall also pay the Landlord compensation of \$64.44 per day for the use of the unit starting December 2, 2022 until the date the Tenant moves out of the unit.
  7. If the Tenant does not pay the Landlord the full amount owing on or before December 18, 2022, the Tenant will start to owe interest. This will be simple interest calculated from December 19, 2022 at 4.00% annually on the balance outstanding.
  8. If the unit is not vacated on or before January 3, 2023, then starting January 4, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
  9. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord on or after January 4, 2023.
  10. The termination date of the Tenancy is delay on consent of all the parties until January 3, 2022, subject to the terms below at paragraph 11 as agreed.
  11. The Tenant agrees to make the following payments:
    - a. On or before December 2, 2022, the December rent payment of \$1,960.00;
    - b. On or before December 16, 2022, a payment of \$1,500.00; and
    - c. On or before December 31, 2022, a payment of \$1,500.00.
  12. If the Tenant fails to make any of the payments in accordance with paragraph 11, and by the dates required, then:
    - (a) The Landlord may apply under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') for an order terminating the tenancy and evicting the Tenant, and for the payment of any new arrears of rent and NSF charges not already ordered under paragraph 1 of this order. The Landlord must make the application within 30 days of a breach of a condition set out in paragraph 2 of this order.
    - (b) The balance owing under paragraph 2 of this order shall become payable on the day following the date of default. The monies owing shall bear interest at the post-judgment interest rate determined under subsection 207(7) of the Act.

13. The Landlord shall pay the Tenant is \$658.06. This amount represents:
- \$610.06 for repair or replacement work (paint) the Tenant was authorized to do.
  - \$48.00 for the cost of filing the application.

14. This amount shall be credited towards the arrears of rent.

15. The Landlord shall repair the remaining items identified by the Tenant. The Tenant shall not deny the Landlord entry on notice, to inspect the items and to arrange repairs. It is understood that there may be other maintenance requests not listed in the application, however this order shall cover all maintenance issues reported to the Landlord up to and including the date of the hearing.

T2 Application.

16. The total amount the Landlord shall pay the Tenant is \$200.00. This amount represents compensation for the Landlords conduct towards the Tenant.

17. This amount shall be credited towards the arrears of rent.

**December 7, 2022**  
**Date Issued**

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Robert Patchett  
Vice Chair, 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.

In accordance with section 81 of the Act, the part of this order relating to the eviction expires on July 4, 2023 if the order has not been filed on or before this date with the Court Enforcement Office (Sheriff) that has territorial jurisdiction where the rental unit is located.

\*Note: When the Board directs payment-out, the Canadian Imperial Bank of Commerce will issue a cheque to the appropriate party named in this notice. The cheque will be in the amount directed plus any interest accrued up to the date of the notice

**Schedule 1  
 SUMMARY OF CALCULATIONS**

**A. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before December 31, 2022**

Rent Owing To December 31, 2022	\$11,760.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the Landlord owes the Tenant	- \$858.06
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$11,087.94</b>

**B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before January 3, 2023**

Rent Owing To January 31, 2023	\$13,720.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the Landlord owes the Tenant	- \$858.06
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$13,047.94</b>

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**C. Amount the Tenant must pay if the tenancy is terminated**

Rent Owing To Hearing Date	\$9,864.44
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount of the last month's rent deposit	- \$1960.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$18.43
<b>Less</b> the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$858.06
<b>Total amount owing to the Landlord</b>	<b>\$7,213.95</b>
Plus daily compensation owing for each day of occupation starting December 2, 2022	\$64.44 (per day)

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