



Order under Section 69 / 88.1 / 89 Residential Tenancies Act, 2006

Citation: Thomas v Hamza, 2025 ONLTB 34867

Date: 2025-05-07

File Number: LTB-L-010585-22

In the matter of: Basement, 763 ASHPRIOR AVE
MISSISSAUGA ON L5R3P1

Between: Sobey Paulose Thomas
Apurva Thomas

And

Shaima Hamza

I hereby certify this is a
true copy of an Order dated

MAY 07, 2025

Landlord and Tenant Board

Landlords

Tenant

Sobey Paulose Thomas and Apurva Thomas (the 'Landlords') applied for an order to terminate the tenancy and evict Shaima Hamza (the 'Tenant') because:

- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant;
- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has wilfully or negligently caused damage to the premises

The Landlords also applied for an order requiring the Tenants to pay the Landlord's 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.

The Landlords also applied for an order requiring Shaima Hamza (the 'Tenant') to pay the Landlords' reasonable out-of-pocket expenses that are the result of the Tenant's conduct or that of another occupant of the rental unit or someone the Tenant permitted in the residential complex. This conduct substantially interfered with the Landlords' reasonable enjoyment of the residential complex or another lawful right, privilege or interest.

This application was heard by videoconference on March 18, 2025. The Landlord and the Tenant attended the hearing.

The application was amended to remove Dr. Dalal Shaheen as a named Tenant. This order represents that change.

As of the completion of this matter the Tenant had vacated the rental unit and the Landlords had regained possession, therefore the Landlords' claims with respect to section 69 of *Residential Tenancies Act, 2006* (the 'Act') are moot. This order shall only address the claims pursuant to sections 88.1 and 89.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities some of their claims for compensation in the application. Therefore, the Tenant must pay the Landlord \$686.00, which represents the reasonable costs to repair the undue damage caused by the Tenant and the costs associated with filing the application.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. The Tenant vacated the rental unit on May 31, 2022.
4. In the application the Landlord claims the following with respect to willful or negligent damage and out of pocket expenses associated with substantial interference:
 - excessive use of the air conditioner;
 - excessive hot water;
 - replacement of the washing machine;
 - dishwasher and electric stove repairs;
 - limit switch inside the furnace;
 - service calls for plumber;
 - replacement of light switch covers;
 - bidet installation and water damage in the bathroom;
 - flooring in the rental unit; and
 - wallpaper in the kitchen.
5. In order for the Landlord to be successful pursuant to claims made under subsections 88.1 and 89 of the Act, the Landlord must satisfy the Board that the damage or out of pocket expense came as a result of the conduct of the Tenant; and that the conduct rises to the level of substantial interference, and/or that the damage was willfully or negligently caused by the Tenant.
6. These sections are intended to capture expenses related to undue damage or conduct that would substantially interfere with a lawful right, privilege, or interest of a Landlord and has an associated cost that otherwise should not be the Landlord's obligation to pay (i.e. garbage left by a Tenant or former Tenant). These sections are not intended to compensate a Landlord for ordinary wear and tear.
7. This is the Landlords' application and so they bear the burden to lead sufficient evidence to establish that their version of events is more likely than no to be true. For the following reasons, I find that the Landlord has led insufficient evidence to establish that the Tenant willfully or negligently caused undue damage with respect to the following claims:
 - a) Excessive use of the air conditioner;
 - b) Limit switch inside the furnace;
 - c) Excessive hot water;
 - d) Service calls for plumber, faucet & flooring in the rental unit;
 - e) Replacement of the washing machine & repairs to the dishwasher, and stove;

- f) Bidet installation, water damage in the bathroom, light switches covers, other cosmetic damage.

a), b), and c):

8. The residential complex contains multiple units. The Landlord says that the Tenant used the air conditioning in an excessive manor which caused the AC to stop working, in addition the Landlord needed to replace the limit switch in the furnace. These repairs were completed May 29, 2020.
9. The thermostat was not located in this Tenant's rental unit meaning they had no control over its general use. There was evidence that the Tenant would complain about the temperature from time to time that was later adjusted either by the other Tenant or the Landlord's instruction. However, as the thermostat was not contained in this Tenant's unit- it is reasonable to assume that she was not the only one who had access and control to use the AC and the furnace.
10. The age of the AC unit and furnace is unknown, the invoices from Air Comfort Mechanical Inc. also contain comments like replacement of the limit switch, cleaned sensor, there is no indication that the issue was a result of excessive use or wilful or negligent damage. There is insufficient evidence from the Landlord for me to conclude that the damage was caused willfully or negligently by this Tenant- therefore these claims are dismissed. Furthermore, these repairs were made in 2020 and the application was not brought until 2022. The apparent lapse in time supports the conclusion that the collection of money with respect to these repairs was not overly important to the Landlord.
11. The Landlord also failed to show a) how the water use of the Tenant was excessive and b) that it was this specific Tenant who was using the water. Therefore, this claim is also dismissed.

d) *Service calls for a plumber, faucet & Flooring in the rental unit.*

12. The Landlord relied on an invoice from Plumbing & Mechanical Services Inc. dated 11/06/2021 (page 60 of 84 of the Landlord's document brief). Containing the following information:

Service call: leak

\$175.00

1 first service call: went to inspect possible leak in basement of house by water meter. Due to the humidity & and Ac at full power condensation of water supply & water meter was visible, was not able to secure insulation to the piping or further investigate for leaks due to scheduling issues with tenant.

2 second service call: went to check the same area no condensation was present, a little rust underneath the water meter itself was present

Put insulation on piping to prevent condensation. Also checked kitchen sink, washroom for any other issues, none where found. Tenant pointed put water pooling up in furnace area, but the pipe for ac was moved away from the floor drain, placed it back on top of drain.

13. There is nothing here to suggest that the leak was caused willfully or negligently by this Tenant. As already mentioned, the furnace and AC was supplied to multiple units and the control of that was not in this Tenant's rental unit. It appears from the invoice that no other

sources of the leak were found and once the pipe was insulated, the leak was resolved. This claim is dismissed.

14. Page 61 of the Landlord's document brief contains an invoice for a faucet that was purchased, dated 11/12/2021. There was no evidence presented that the reason the faucet needed to be replaced was due to undue damage. This claim is dismissed.
15. The Landlord says that the floors in the rental unit were installed new prior to the Tenant taking occupancy. He relied on photos that show the flooring separating from the joints in between the planks. The floors, from the photos do not appear to contain undue damage (pages 15-18 DOC-1714454). The separation could have been caused by a number of things, one of which being shifting of the floor. The Landlord has led insufficient evidence for me to conclude that this is undue damage caused by the Tenant.

e): Replacement of the washing machine & repairs to the dishwasher, and stove

16. Again, the Landlord has failed to demonstrate how the costs associated with the disrepair was a result of willful or negligent damage. The Tenant sends a text message to the Landlord stating that the arm on the dishwasher melted. The stove had an element that burnt out.
17. The Landlord supplied a copy of the invoice, totaling \$200.00 dated 2020-12-11 the invoice shows that Electrical Supply and Services installed a washer bottom arm and installed a hearing element. The Tenant says that these expenses are ordinary wear and tear- and I tend to agree. There was nothing suggested that the Tenant used the appliances in a manner that is inconsistent with their intended purposes. Therefore, this claim is dismissed.

f) Bidet installation, water damage in the washroom, light switch covers, other cosmetic damages:

18. The Landlord says that the Tenant installed a bidet and caused water damage in the bathroom. The Tenant says that the bidet was already installed when they took possession and that although there are water marks on the drywall that it is ordinary wear and tear.
19. There was no evidence presented either through a witness or other documents that the bidet was installed incorrectly or by the Tenant. There were listing photos provided by the Landlord, however, they do not show the area surrounding the toilet. The damage in the bathroom and other areas of the rental unit are purely cosmetic and more attributable to ordinary wear and tear. The tenancy was approximately 3 years and therefore it is expected that walls, door frames, etc, would contain some scuffs and chips. This claim is dismissed.

Wallpaper in the Kitchen:


20. The Landlord says that the Tenant installed wallpaper without their consent or approval. The Tenant says it was installed prior to them taking occupancy. The Landlord showed pictures contained in the rental advertisement. The pictures show that the rental unit was free of wallpaper. The Tenant did not show any photos proving otherwise. Therefore, I find it more likely than not that the Tenant installed the wallpaper.

21. I find that the Landlord is entitled to \$500.00 based on my experience and knowledge of similar cases. I say this because the Landlord could have removed the wallpaper and repainted the area and given the estimated cost of materials and labour, this is the reasonable cost. The Landlord supplied an invoice from Classic Kitchen Cabinets and Bath- however that invoice was to repaint the whole basement, basement flooring, and other repairs for a total of \$4,068.00 given that there was no breakdown of work- I have assigned a value to the work that I believe is fair and appropriate.
22. Since the Landlord is partially successful in their application, I find that they are entitled to the filing fee.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated as of May 31, 2022.
2. The Tenant shall pay to the Landlord \$500.00, which represents the reasonable costs of repairing the damage.
3. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
4. The total amount the Tenant owes the Landlord is \$686.00.
5. If the Tenant does not pay the Landlord the full amount owing on or before May 18, 2025, the Tenant will start to owe interest. This will be simple interest calculated from May 19, 2025 at 5.00% annually on the balance outstanding.

May 7, 2025
Date Issued


Curtis Begg
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.