

ONTARIO

SUPERIOR COURT OF JUSTICE
DIVISIONAL COURT

BETWEEN:)
)
Evie Yimin Tong) Self-Represented Appellant
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Appellant)
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– and –)
)
Lily Duong) Self-Represented Respondent
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Respondent)
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)
) **HEARD at Toronto:** January 13, 2026

2026 ONSC 266 (CanLII)

Shore, J.

[1] The Landlord appeals the decision of the Landlord and Tenant Board (“LTB”), dated June 6, 2025, finding that the Landlord’s conduct constituted harassment of the Tenant, and requiring the Landlord to pay the Tenant \$1,048, amongst other relief.

[2] On October 6, 2025, after review of the Notice of Appeal and the factum, I directed the Registrar to give the Appellant notice in Form 2.1A that the court is considering dismissing the appeal for lack of any grounds of appeal.

[3] Under the provisions of Rule 2.1.01(3) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, the plaintiff was invited to file written submissions within 15 days, consisting of no more than 10 pages explaining why his motion should not be dismissed. The Landlord provided submissions.

[4] Having reviewed the Landlord’s Notice of Appeal, the factum, and the submissions, and even with a generous reading of the grounds for appeal, I find there are no grounds of appeal and therefore the appeal is dismissed pursuant to Rule 2.1.01.

[5] Rule 2.1.01 outlines a process that permits the court to bring fair and just resolutions to a particular category of disputes in a proportionate, timely and affordable way. Under Rule 2.1.01(1) and 2.1.01(3), the Court may on its own initiative, stay or dismiss a proceeding if the proceeding appears on its face to be frivolous or vexatious or otherwise an abuse of the court’s process.

[6] The principles to be applied by a judge considering a requisition under Rule 2.1.01 include, but are not limited to, the following:

- (a) The statement of claim must be read generously. Drafting deficiencies may be overlooked and the plaintiff given the benefit of the doubt if it appears that the action might be viable;
- (b) “[R]ule 2.1 is not for close calls. Its availability is predicated on the abusive nature of the proceeding being apparent on the face of the pleadings themselves”: *Raji v. Borden Ladner Gervais LLP*, 2015 ONSC 801, at para. 9;
- (c) An action should be dismissed under Rule 2.1 only if there is “a basis in the pleadings to support the resort to the attenuated process” resulting from the use of the rule: *Raji*, at para. 9;
- (d) The procedure under Rule 2.1 should not be used as a substitute for a pleadings motion; and
- (e) The procedure is intended to serve the purpose of “nipping in the bud actions which are frivolous and vexatious in order to protect the parties opposite from inappropriate costs and to protect the court from misallocation of scarce resources”: *Markowa v. Adamson Cosmetic Facial Surgery Inc.*, 2014 ONSC 6664, at para. 3

[7] At para. 9 in *Gao v. Ontario WSIB*, 2014 ONSC 6497, 61 C.P.C. (7th) 153, Myers J. referred to the definition in Black’s Law Dictionary of “frivolous”: “Lacking a legal basis or legal merit; not serious; not reasonably purposeful”: quoting from *Currie v. Halton Regional Police Services Board*, (2003) 233 D.L.R. (4th) 657, (ON CA), at para. 14.

[8] In considering whether there is a legal basis or legal merit to an appeal, the focus under r. 2.1 is on the pleadings (or notice of appeal) and any submissions of the parties made pursuant to the rule. The role of the judge is to determine whether on its face, and in light of any submissions, the proceeding is frivolous, vexatious, or an abuse of process.

[9] In this case, the Landlord is appealing the order of the LTB, under Section 210 of the *Residential Tenancies Act, 2006*, S.O. 2006, c. 17. An appeal from the LTB is restricted to questions of law. The core grounds of appeal by the Landlord are the factual findings of the LTB, despite the appellant’s references to “errors of law” and, on this basis, I find there are no merits to the appeal.

[10] As a preliminary issue, the Landlord asserts that the Tenant provided false evidence under oath and seeks a contempt order. The Landlord then submits the LTB misapprehended the evidence and could not have made a finding of harassment had they properly appreciated the evidence before them. The Landlord submits that the LTB made an unreasonable finding of fact and unreasonably exercised their discretion, which amounts to an error of law. These alleged errors can be summarized as follows:

- (a) The LTB misapprehended the evidence before them and had they properly assessed the facts, they could not have made a finding of harassment;
- (b) The Landlord had a right to know whether there was a guest staying over and therefore their actions to uncover this fact could not have constituted harassment; and
- (c) The LTB failed to apply the *Human Rights Code* (this submission was not raised before the LTB and cannot be raised on first instance before this Court).

[11] Some of the grounds of appeal were couched as errors of law, but in reviewing the actual claims, there were claims regarding findings of fact. The Landlord submits their actions could not amount to harassment if they were simply enforcing or following obligations under various legislation. For example, the Landlord refers to Section 17 of the *Condominium Act, 1998*, S.O. 1998, c. 19, which addresses tenant compliance with the *Act*. But the basis of the appeal still relates to the finding of fact.

[12] I find that, on its face, the Notice of Appeal provides no merit on the grounds of appeal. Under the guides of labelling the grounds as “errors of law” the Landlord is appealing findings of fact made by the LTB. The Landlord identifies sections in the legislation but challenges the findings of fact or the application of facts to the law made by the LTB, not that the LTB got the law wrong.

[13] The appellant is seeking to re-litigate the very factual issues that were before and determined by the LTB, contrary to Section 210 of the *Residential Tenancies Act*.

[14] For the reasons set out above, I find the appeal to be lacking legal merit and is therefore frivolous, vexatious or an abuse of process.

[15] The appeal is dismissed pursuant to Rule 2.1.01, without costs.

Shore J.

Released: January 15, 2026

CITATION: Tong v. Duong, 2026 ONSC 266
DIVISIONAL COURT FILE NO.: 532/25
DATE: 20260115

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SUPERIOR COURT OF JUSTICE
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BETWEEN:

Evie Yimin Tong

Appellant

– and –

Lily Duong

Respondent

REASONS FOR JUDGMENT

Shore J.

Released: January 15, 2026