Barbara Kay: In landlord vs. religious Muslim couple, no one won. Everyone lost

Years ago, my then-lawyer son was seeking affordable lodging in Manhattan. He discovered many landlords wouldn't rent to lawyers: too quick to litigate small grievances. This was a permitted form of rental discrimination? Yes, according to my son, who wouldn't have conformed to that stereotype, but was penalized for it anyway.

I wondered about the discretion allowed to Canadian landlords. I was informed a certain latitude is allowed — if, say, the applicant is a professional tuba player and practices six hours a day, an extreme annoyance to other tenants. That seems reasonable for, after all, the tuba-practicing stereotype is borne out in all cases, whereas with lawyers, its merely a presumed nuisance — and not even to other tenants, but only to the landlord.

I was reminded of the delicacy of this question — what constitutes a reasonable prejudice for a landlord assessing applications for tenancy — by a recent case brought before the Human Rights Tribunal of Ontario (HRTO), in which landlord John Alabi was fined $12,000 for having discriminated against his Muslim tenants on the grounds of their faith.

What constitutes reasonable prejudice for a landlord assessing applications for tenancy?

Montrealers Walid Madkour and Heba Ismail rented a Toronto unit from Alabi for a less than three-month stay, beginning in January of 2015. Alabi had to show the unit to prospective new tenants, and told the couple he would give them a 24-hour heads up before a viewing. Madkour and Ismail asked for an additional notice of an hour, so that the visit did not coincide with any of their five daily prayer sessions, and to permit Ismail time for modest self-presentation. Alabi did not co-operate with that request, agreeing only to send them a text message shortly in advance of the viewing. Another irritation was Alabi's refusal to remove his shoes in the bedroom, which also served as the tenants' prayer space. From the news report, I instinctively felt sympathy for the tenants. Especially since, from one of Alabi's text messages to Madkour regarding the extra notice required ("Welcome to Ontario, Canada"), I sensed a certain attitude on Alabi's part that might indicate anti-Muslim bias.

But then I had an email discussion with "James," who is both a lawyer and landlord ("a very good one," he says). James is well placed to commentate on the issue. He began his legal career with the Ontario attorney general, who prosecutes cases before the HRTO. He asked me to consider the situation from a landlord's perspective, and when I did, I had to rethink my response to the case.

James pointed out that Ontario landlords are not legally obliged to exert more than "reasonable efforts" to notify tenants of viewings, so tenants' "rights" have not been abrogated if landlords refuse to provide more than 24 hours' notice (which is the standard in most other provinces). He agrees that the landlord's refusal to remove his shoes was disrespectful, but considers the other demands — accommodation for multiple prayer times and religious costuming — unreasonable in a secular society. Pertinently, James is himself religiously observant, but told me he would not expect special accommodation in the same situation on that account.

Instead of going nuclear with the human rights tribunal, basic mediation would have revealed compromise could be reached through a smidgen of mutual courtesy.

I asked James what he thought a righteous religion-based grievance might be. He wrote, "It is difficult to know other than to say that they are getting broader and more absurd all the time. In light of this decision, what landlord wants to open themselves to this kind of debacle for failing to navigate someone's personal belief system?"

Most sobering is the fact that the defendant must hire a private lawyer, whose costs — thousands of dollars per day, according to James — are not recovered even if he wins. Minimally, James reckons, Alabi is out $22,000. On the other hand, win or lose, the cost to the complainants is nothing but their time before the tribunal.

I now sympathize with neither party. Instead of going nuclear with the HRTO, basic mediation would have revealed that compromise could have been reached through a smidgen of mutual courtesy. It wouldn't have killed Ismail to wear modest garb indoors the whole afternoon. It wouldn't have killed Alabi to remove his shoes. It wouldn't have killed Madkour to assign specificity to their prayer time.

As it is, Alabi is now feeling unjustly fleeced and resentful toward both the HRTO and the tenants. Other landlords are perhaps uneasily regarding practicing Muslims the way New York landlords perceive lawyers. The tenants (and their peer tenants everywhere in Ontario) have discovered that small-beer religion-based grievances are not only perceived as important rights issues by official bodies, but can offer lush returns on a negligible investment. Nobody learned anything about our culture's commonly held value of social reciprocity. So, at taxpayers' expense, nothing good was accomplished here. Quite the opposite, one might say.

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Kaybarb@gmail.com
Twitter.com/BarbaraRKay

(--image--)

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CommentsnpReady(function(){npJ('.npStoryShare .npIconComments').unbind().bind('click',function(){npJ('html, body').animate({scrollTop:npJ('#disqus_thread').offset().top});return false})})

LinkedIn

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Pinterest

Digg
FarkIt
StumbleUpon

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, "top" )


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Full Comment Videos(function() { pnShowVideo("1_9hi1opyb", 957405, "", "", "false", "", "", "kaltura", "playlist", "http:\/\/news.nationalpost.com\/full-comment\/video\/{videoId}", null, "", "false"); })(); Post Picks
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jQuery(document).ready(function() {

googletag.cmd.push(function() {

var gpt_bigboxbot = googletag.

defineSlot ("/3081/npo_opin/full-comment/story", [[300,250],[300,253],[300,600],[300,603]] , 'gpt-bigboxbot');

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});
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var NPFreeskreen = NPFreeskreen || {};
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}
} else {
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}
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Sign Up / Sign In

With your existing account from:
{* loginWidget *}

or with your account:
{* #signInForm *}
{* signInEmailAddress *}
{* currentPassword *}

Forgot your password?

Sign In
Create Account

{* /signInForm *}

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Sign in to your account

Welcome back, {* welcomeName *}!
{* loginWidget *}
Not {* welcomeName *}? Switch Account

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FAQ

Sign in to your account

Welcome Back, {* welcomeName *}!

{* #signInForm *}
{* signInEmailAddress *}
{* currentPassword *}

Sign In

{* /signInForm *}
Not {* welcomeName *}? Switch Account

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Account Deactivated

Your account has been deactivated.

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Account Reactivation Failed

Sorry, we could not verify that email address.

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Account Activated

Your account has been reactivated.

Sign in

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Email Verification Required

You must verify your email address before signing in. Check your email for your verification email, or enter your email address in the form below to resend the email.

{* #resendVerificationForm *}
{* signInEmailAddress *}

{* /resendVerificationForm *}

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Almost Done!

Please confirm your details below.
{* #socialRegistrationForm *}

{* firstName *}
{* lastName *}
{* emailAddress *}
{* displayName *}

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Birthdate{* birthdate *}

Gender{* gender *}

Attention Print Newspaper SubscribersFor verification of Print Subscriber offers (e.g. epaper, Digital Access, Subscriber Rewards), please input your Print Newspaper subscription phone number and postal code.
{* phone *}
{* addressPostalCode *}

By clicking "Create Account", I hearby grant permission to Postmedia to use my account information to create my account.
I also accept and agree to be bound by Postmedia's Terms and Conditions with respect to my use of the Site and I have read and understand Postmedia's Privacy Statement. I consent to the collection, use, maintenance, and disclosure of my information in accordance with the Postmedia's Privacy Policy.

{* backButton *}

{* /socialRegistrationForm *}

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Almost Done!

Please confirm your details below. Already have an account? Sign In.
{* #registrationForm *}

{* firstName *}
{* lastName *}
{* emailAddress *}
{* displayName *}
{* newPassword *}
{* newPasswordConfirm *}

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Birthdate{* birthdate *}
Gender{* gender *}

Attention Print Newspaper SubscribersFor verification of Print Subscriber offers (e.g. epaper, Digital Access, Subscriber

Rewards), please input your Print Newspaper subscription phone number and postal code.

{* phone *}
{* addressPostalCode *}

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I also accept and agree to be bound by Postmedia's Terms and Conditions with respect to my use of the Site and I have read and understand Postmedia's Privacy Statement. I consent to the collection, use, maintenance, and disclosure of my information in accordance with the Postmedia's Privacy Policy.

{* backButton *}

{* /registrationForm *}

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Verfiy your email

We have sent you a confirmation email to {* emailAddressData *}. Please check your inbox and follow the instructions to confirm your email address.

Close

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Create a new password

Follow these simple steps to create a new password:

1. Enter your email address below
2. Wait for the instructions to arrive in your inbox
3. Follow the instructions to update your password

{* #forgotPasswordForm *}
{* signInEmailAddress *}

{* backButton *}

{* /forgotPasswordForm *}

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Create a new password

We've sent an email with instructions to create a new password. Your existing password has not been changed.

Close

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{* mergeAccounts {"custom": true} *}

Merge Your Accounts

{| rendered_current_photo |}

{| current_displayName |}
{| current_emailAddress |}

{| foundExistingAccountText |} {| current_emailAddress |}.

{| moreInfoHoverText |}
{| existing_displayName |} - {| existing_provider |} : {| existing_siteName |} {| existing_createdDate |}

{| moreInfoText |}

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{| existing_provider_emailAddress |}

Created {| existing_createdDate |} at {| existing_siteName |}

{| connectLegacyRadioText |}

{| createRadioText |} {| current_provider |}

Validating

{| connect_button |}
{| create_button |}

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Sign in to complete account merge

{* #signInForm *}
{* signInEmailAddress *}
{* currentPassword *}

{* backButton *}
Sign In

{* /signInForm *}

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Resend Verification Email

Sorry, we could not verify your email address. Please enter your email below, and we'll resend the instructions for email verification.
{* #resendVerificationForm *}
{* signInEmailAddress *}

{* /resendVerificationForm *}

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Verification Email Sent

Check your email for a link to verify your email address.

Close

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Email Verified

Thank you for verifiying your email address.

Close

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Change Password

{* #changePasswordFormNoAuth *}
{* newPassword *}
{* newPasswordConfirm *}

{* /changePasswordFormNoAuth *}

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Password Changed

Your password has been successfully updated.

Close

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Create New Password

We didn't recognize that password reset code. Please enter your email below, and we'll send you a new code to reset your password.
{* #resetPasswordForm *}
{* signInEmailAddress *}

{* /resetPasswordForm *}

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Create New Password

We've sent you an email with instructions to create a new password. Your existing password has not been changed.

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/* */

/* */

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if( false !== wpcom_mobile_user_agent_info.matchedUserAgentName )
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jQuery(document).on('keydown', '.sponsored-icon img', function() {
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});

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} else {
popUpBox.fadeOut("slow");
}
});

jQuery(document).on('click', '.sponsored-icon-popup>img', function() {
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jQuery(document).on('click', '.sponsored-icon>input[type=image]', function() {
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} else {
popUpBox.fadeOut("slow");
}
});

jQuery(document).on('click', '.sponsored-icon-popup>input[type=image]', function() {
jQuery(this).parent().fadeOut("slow");
});


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xfbml : true,
version : 'v2.4'
});
};
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if (d.getElementById(id)) {return;}
js = d.createElement(s); js.id = id;
js.src = "//connect.facebook.net/en_US/sdk.js";
fjs.parentNode.insertBefore(js, fjs);
}(document, 'script', 'facebook-jssdk'));


(--image--)


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e.setAttribute('src',
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'http://') +
'static.chartbeat.com/js/chartbeat_video.js');
document.body.appendChild(e);
}
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loadChartbeat();
};
}());


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_gaq.push(['_setDomainName', document.location.hostname]);
_gaq.push(['_trackPageview']);
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var ga = document.createElement('script'); ga.type = 'text/javascript'; ga.async = true;
ga.src = ('https:' == document.location.protocol ? 'https://ssl' : 'http://www') + '.google-analytics.com/ga.js';
var s = document.getElementsByTagName('script')[0]; s.parentNode.insertBefore(ga, s);
})();


var _comscore = _comscore || [];
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(function() {
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s.src = (document.location.protocol == 'https:' ? 'https://sb' : 'http://b') + '.scorecardresearch.com/beacon.js';
el.parentNode.insertBefore(s, el);
})();
```

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