



## Order under Section 31 Residential Tenancies Act, 2006

**Citation:** Hillman v Burton, 2024 ONLTB 7001

**Date:** 2024-01-19

**File Number:** LTB-T-058945-22

**In the matter of:** 1156 ALLIANCE ST  
LASALLE ON N9H0C3

**Between:** Joan Hillman Tenant

**And**

Andrew William Burton Landlords  
Mary Margaret Hillman-Burton

Joan Hillman (the 'Tenant') applied for an order determining that Andrew William Burton and Mary Margaret Hillman-Burton (the 'Landlords'):

- entered the rental unit illegally
- substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenant or by a member of their household
- harassed, obstructed, coerced, threatened or interfered with the Tenant

This application was heard by videoconference on November 22, 2023.

The Landlords, the Landlords' Representative Thomas Vanner, the Tenant, and the Tenant's Representative Richard Lammers attended the hearing.

### **Determinations:**

1. As explained below, the Tenant proved the allegations contained in the application on a balance of probabilities. Therefore, the Landlords must pay the Tenant \$1,507.57.

### Illegal entry

2. In the application, the Tenant claimed that the Landlords entered the rental property without notice or consent and on a non-emergency basis on the following dates:
  - April 12, 24, 2022;
  - May 2, 14, 17, 18, 23, 28, 29, 30, 2022;
  - June 5, 6, 7, 8, 2022;
  - July 11, 12, 13, 14, 21, 25, 28, 2022.
3. Sections 26 and 27 of the *Residential Tenancies Act, 2006* (the "Act") set out how a landlord may enter a rental unit with and without notice. Section 26 provides that a landlord

may enter without notice in cases of emergency or if the tenant consents to the entry at the time of entry. Section 27 permits a landlord to enter with written notice at least 24 hours before the time of entry in certain circumstances, such as for maintenance work, to do an inspection, or for any other reasonable reason for entry specified in the lease agreement.

4. At the hearing, the Tenant agreed that the Landlords entered the rental unit prior to April 12, 2022 but that she never complained of it then because it was “just a visitation because of family.” One of the Landlords is the Tenant’s daughter and the other Landlord is the Tenant’s son-in-law. The Tenant agreed that she permitted the Landlords to let themselves in with the garage door opener and key they had. The Tenant also confirmed that she began documenting the entries on April 12, 2022 because that was the day the Landlords came to inform her that the Landlords are moving out.
5. Given the nature of this family relationship and the Tenant’s ongoing consent to entries up until April 12, 2022, I find that it was reasonable to expect the Tenant to inform the Landlords that she no longer consents to entries without notice for the Landlords to be aware that the Tenant expected them to comply with the Act’s notice requirements for entry.
6. The Tenant sent the Landlords a letter on June 10, 2022 which states “I must insist that our new arrangement also be in writing . . . In past, I am afraid you have played free and loose with the laws governing the [RTA] and as a result many problems have occurred. The following list are the areas that I feel need to be addressed in no specific order.” The letter continues to describe Andy’s entries as one of those problems and that the Landlords “come and go as [they] please.”
7. In cross-examination, the Tenant conceded that she never told the Landlords that they could not enter the unit before she sent the letter. “I didn’t get a chance because if they came and knocked on the door it was opened before I could get to the door.” This does not address the fact that the Tenant could have raised the issue even after they had entered past the door, or by phone call or email or letter on another date. The Landlords’ Representative also questioned whether the Tenant ever told them to leave and the Tenant stated she could not recall.
8. As a result, I am only considering the entries in July 2022 which were after the letter was sent on June 10, 2022 which gave the Landlords notice that the Tenant withdrew consent to entries without notice. The Tenant’s daughter and Landlord Ms. Hillman-Burton testified that she was welcome in the home up until June, that she would enter and have a cup of tea, talked to the Tenant, and they also went shopping.
9. The Landlords also provided testimony regarding the entries in July 2022, and Andrew William Burton stated that he provided notices of entry 9 times. The first one was on July 4 and covered July 5, 6, 7, 8. While these were invalid notices as they do not comply with the requirements of written notice, this is immaterial as July 5-8 are not dates the Tenant is claiming as illegal entries as are the remainder of the notices Mr. Burton provided. Mr. Burton proceeded to outline all of the notices given and the specific dates they covered (from August to October). Mr. Burton referred to no other notices of entry given in July past the 8th.

10. Therefore, I find on a balance of probabilities that the Landlords entered without notice or consent and on a non-emergency basis on July 11, 12, 13, 14, 21, 25, 28, 2022, contrary to ss. 26-27 of the Act. The Landlords did not dispute the Tenant's log and/or the dates of entries submitted for July. I accept the log as accurate as the Tenant specifically began documenting entries two months prior on April 12, 2022 after a specific conversation the Tenant recalls. The Landlords also did not refer to any notice of entry that was given for these dates in July 2022.
11. The application claims daily compensation for each unlawful entry and I accept this as a reasonable remedy. Therefore, the Landlords shall pay the Tenant \$159.40 for the illegal entries in July 2022 ( $\$692.67 \times 12$ , divided by 365 equals  $\$22.77 \times 7$ ).

### Substantial Interference

12. The application claims that on May 28, 2022, the Landlord Andrew William Burton illegally entered the rental property, removed and disposed of numerous personal items belonging to the Tenant which amount to \$1,030.00. These items were stored in the garage and include a rake, snow shovel, crates, stapler, lamp, etc.
13. At the hearing, the Tenant testified that she went to Walmart that day and when she returned the items were gone as the Landlords had people come that day to remove junk from the basement which the Tenant agreed to but she did not agree for anything in the garage to be removed.
14. The Tenant submitted no photos of the items or receipts and determined their cost by going on Kijiji to see what other people selling similar items were asking.
15. Overall, the Tenant submitted minimal evidence on this issue.
16. The Landlord Ms. Hillman-Burton testified that she did not see all of these tools in the Tenant's list, only a few screwdrivers, the red toolbox on top of the white box and in that little toolbox a few screw drivers and wrenches maybe a hammer nothing exorbitant in that box. The Landlord also agreed they currently have the leaf blower.
17. The Landlord does not know about several other items claimed, such as the two wooden crates, the protector power bars, the electric outdoor coach lamp, plastic container, tape rolls, or drill bit.
18. The Landlord testified that she has not seen the stapler gun in 3 years, saw the antique jars on a table but thought they were given to her sister-in-law, saw the hockey net which was for Gord's son who is now 32 years old and it was in the garage for a few years, the hand cultivator could have been on the rack, and saw the shovel, stand up weeder, claw rake, and the Swiffer could be in the house. The garden pots were left in the garage on the floor when the Tenant moved out. The lawn mower was sold a long time ago.
19. The Landlord further testified that there was an occasion where the Tenant invited her grandchildren to take possessions from the basement and garage. The Tenant's evidence on this point was that the children only took items out of the basement, not the garage.

20. I accept that some of the Tenant's items were removed by the Landlords without her consent given her testimony and the Landlord's concessions that they were present. However, the evidence is unclear on whether the grandchildren removed anything from the garage as well and it is also unclear which exact items the Tenant lost. The Tenant submitted minimal evidence about these items and the Landlord only acknowledges some existed some of which were sold or given away according to them.
21. I assess the replacement cost of these items on a balance of probabilities and based on the evidence submitted, and in doing so, conclude that \$607.50 is the replacement cost for the following:
- \$50 for the leaf blower
  - \$30 for the shovel
  - \$20 for the stapler
  - \$20 for the hockey net
  - \$30 for the hand cultivator
  - \$25 for the stand up weeder
  - \$10 for the snow shovel
  - \$422.50 split for other items I find the Tenant had but it is unclear exactly what (\$1,030 total claimed minus \$185 for all items established divided by two = \$422.50 estimated cost)
22. The Landlords may deduct \$50 from this amount if they return the leaf blower they agree they currently have.

### Harassment

23. In the application, the Tenant claims that "on September 29, 2022, the Landlord, Andrew William Burton, entered the rental property and demanded the Tenant to pay two invoices dated July 25, 2022 and September 25, 2022. Both invoices totaled \$429.85. The invoices were for services that are not the responsibility of the tenant (see attached invoices referred to). Andrew Burton raised his voice in an abusive, condescending, threatening tone towards the Tenant as he made his verbal demand for payment."
24. At the hearing, the Tenant submitted a recording of this conversation. In the conversation, the Landlord is yelling at the Tenant and occasionally swearing (e.g. "I don't give a shit what you care about"; "I didn't touch your shit"; "don't play around with your monkeydicking hands", etc.). The Landlord further threatens the Tenant's security of tenure ("I'm not bullying at all telling the truth I'll have them change the locks"; where are you headed about time you told us"; if I was you I'd start packing up"; "you cannot afford to live here therefore you're a liability to us", etc.). The Landlord also threatens the Tenant ("if you think you're screwing me over you're dealing with the wrong person").
25. I find that the Landlord has harassed, obstructed, coerced, threatened or interfered with the Tenant during the Tenant's occupancy of the rental unit by using abusive and threatening language during his interaction with the Tenant on September 29, 2022.

26. I assess the appropriate remedy to be one month's rent (\$692.67) specifically because the Landlord threatened the Tenant's security of tenure. A residential lease agreement is a "peace of mind" type of contract similar to insurance as it provides the beneficiary with certainty. The Landlord's threat to illegally change the locks is directly contrary to the purpose of a residential lease agreement and would have a significant impact on any tenant whose living situation has now become uncertain. In the conversation the Tenant specifically states "if lock me out then evict me" and "I need some time". One month's rent is an appropriate award corresponding to the impact of the threat.

**It is ordered that:**

1. The total amount the Landlords shall pay the Tenant is \$1,507.57. This amount represents:
  - \$159.40 for the illegal entries in July 2022
  - \$607.50 for the reasonable costs that the Tenant has incurred to replace property that was disposed of as a result of the Landlords' actions.
  - \$692.67 for the harassment
  - \$48.00 for the cost of filing the application.
2. The Landlords shall pay the Tenant the full amount owing by January 30, 2024.
3. If the Landlords do not pay the Tenant the full amount owing by January 30, 2024, the Landlords will owe interest. This will be simple interest calculated from January 31, 2024 at 7.00% annually on the balance outstanding.
4. The tenancy between the Landlords and the Tenant is terminated as of December 1, 2022, the date the Tenant moved out of the rental unit.

**January 19, 2024**  
**Date Issued**

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Elan Shemtov  
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor  
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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.