



**Order under Section 31
Residential Tenancies Act, 2006**

Citation: Brown v Harron, 2023 ONLTB 68682

Date: 2023-10-25

File Number: LTB-T-066965-22

In the matter of: 60 LILA ROAD
OWEN SOUND ON N4K6C2

Tenants

Between: Mharie Brown
Joshua Brown

And

Maria Harron

Landlord

Mharie Brown ('MB') and Joshua Brown ('JB', the 'Tenants') applied for an order determining that Maria Harron (the 'Landlord') entered the rental unit illegally; and substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenant or by a member of their household.

This application was heard by videoconference on September 29, 2023.

Only the Tenants and the Tenants' legal representative J. Miske attended the hearing.

As of 10:01AM, the Landlord was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Tenants' evidence.

Determinations:

1. The tenancy between the parties began on August 27, 2021. At the hearing, the Tenants submitted evidence of a September 8, 2021 text message from the Landlord to the Tenant JB. The text message advised JB that the Landlord had entered the rental unit and used the hot tub. JB testified the Landlord did not give a notice of entry under the *Residential*

Tenancies Act, 2006 (the 'Act'). JB did not consent to the Landlord's entry, and only became aware of the entry upon receiving the Landlord's text message.

2. Based on JB's testimony, I find on a balance of probabilities that the Landlord entered the rental unit on September 8, 2021 without giving notice under the Act and without the Tenants' consent. The Landlord therefore entered the rental unit illegally.
3. The Tenants testified they paid rent to the Landlord for the period ending March 31, 2022. Although the Tenants had found and moved to a different residence elsewhere, I find they were entitled to continue possessing and occupying the rental unit until March 31, 2022.

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4. On or about March 26, 2022, the Tenants attended at the rental unit. The Tenants discovered that the Landlord had changed the locks and that they were unable to enter the property. The Tenants denied receiving a notice of entry from the Landlord, and the Tenants did not consent to allow the Landlord to enter the rental unit. The Tenants testified they complained to the local police that they could not enter the rental unit. The police advised the Tenants that they could break the rental unit door to gain entry with colour of right. The police also advised, however, that the Tenants might be held liable for any damage to the property, including damage to the door. The Tenants decided not to force their way into the rental unit.
5. At the hearing, the Tenants submitted documentary evidence consistent with their testimony that the Landlord started occupying the rental unit in March 2022. The Tenants' evidence included a text message in which the Landlord voiced her intention to retain the Tenant's couch and a pair of shoes.
6. Based on the uncontested evidence, I find on a balance of probabilities that the Landlord entered the rental unit on or before March 26, 2022, without giving the Tenants notice under the Act and without the Tenants' consent. I also find the Landlord illegally retained the Tenants' personal property. The Tenants testified that the Landlord did not permit the Tenants to return to the rental unit to collect their personal property.
7. The Tenants testified that the couch the Landlord retained was new and upholstered in leather. The Tenants did not, however, have evidence, such as a receipt or an advertisement showing an identical or similar model and its purchase price. The Tenants similarly did not have evidence of the replacement cost for the pair of shoes the Landlord retained.
8. The Tenants estimated that the Landlord retained personal property valued at approximately \$5,000.00. This amount includes items such as a barbecue and clothing.

The Tenants, however, only gave testimony that the Landlord retained a leather couch and a pair of shoes. There was no evidence to reliably determine that the Landlord also retained a barbecue, clothing and other items.

9. The Tenants proved the Landlord retained the Tenants' leather couch and a pair of shoes. Landlord shall be ordered to return these items to the Tenants. If the Landlord fails to do so, the Landlord shall be ordered to pay the Tenants a reasonable amount to replace the items.
10. In the circumstances, I find it is appropriate to value the cost to replace the Tenants' new leather couch and pair of shoes at \$1,500.00. Based on past cases involving a tenant's out of pocket costs to replace a leather couch alone, this amount is conservative. However, in the absence of other evidence from the Tenants, I find that the amount is reasonable.
11. All the reasons for this order are contained herein. No further reasons will be given.

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It is ordered that:

1. The Landlord shall return to the Tenants the Tenants' leather couch and pair of shoes that are in the possession or control of the Landlord by October 29, 2023.
2. If the Landlord does not comply with paragraph 1, above, the Landlord shall pay the Tenants is \$1,553.00. This amount represents \$1,500.00 for the reasonable costs that the Tenants have incurred, or will incur, to replace the leather couch and pair of shoes the Landlord retained.
3. The Landlord shall pay the Tenant the full amount owing by October 30, 2023.
4. If the Landlord does not pay the Tenant the full amount owing by October 30, 2023, the Landlord will owe interest. This will be simple interest calculated from October 31, 2023 at 7.00% annually on the balance outstanding.
5. The Tenants have the right, at any time, to collect the full amount owing or any balance outstanding under this order.

October 25, 2023

Date Issued

Harry Cho

Vice Chair, 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.