



Order under Section 31 Residential Tenancies Act, 2006

Citation: Turnbull v Delvalle, 2023 ONLTB 59169

Date: 2023-08-29

File Number: LTB-T-074534-22

In the matter of: 4130 Millcroft park dr
Burlington ON L7M3V1

Tenant

Between: Trevor Allan Turnbull

Landlord

And

Joseph Delvalle

Trevor Allan Turnbull (the 'Tenant') applied for an order determining that Joseph Delvalle (the 'Landlord'):

- entered the rental unit illegally.
- altered the locking system on a door giving entry to the rental unit or residential complex without giving the Tenant replacement keys.
- 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 January 31, 2023.

The Landlord and the Tenant attended the hearing.

Determinations:

1. As explained below, the Tenant proved the allegations contained in the application on a balance of probabilities. Therefore, the Landlord must pay the Tenant \$3,405.00.
2. The Tenant filed the T2 application based on claims that the Landlord illegally evicted the Tenant by changing the locks allowing entry into the unit and not providing the Tenant with a new key, or in this case, the new code, and by doing so, substantially interfering with the Tenant's reasonable enjoyment of the unit.
3. The Tenant moved into the unit on February 15, 2021. The monthly rent was \$2,000.00. The unit was vacated as of November 25, 2022, when the Landlord allegedly changed the locks.
4. The Tenant testified that on November 24, 2022, he was just about to catch a bus on his way home from work when he received a text message from the Landlord. The text message read as follows:

available
Joe Del Valle

Opus

Good afternoon trevor I expect to have money today no money you're not getting to the premises. I've change the door locks. You've given me no choice.



5. After receiving the text message from the Landlord, the Tenant testified that he did not know what to do so he went to a motel for the night. He testified that he did some research about what his rights were and found out that the Landlord can't just change the locks.
6. The following day, the Tenant sent the Landlord a text message advising the Landlord that he was going to attend the unit to grab some stuff and the Landlord responded by advising the Tenant that unless he was giving the Landlord money, there would be no access. The text message exchange is detailed below:

I gotta come grab some stuff today. I'll let you know when

Read 1:36 PM

Sure, do you have money for me... No money no funny had enough your promises I d

Until you give me a sizeable payment, there's no access

7. The Landlord testified that on November 24, 2022, he changed the locks because the lease ended on November 20, 2022. He testified that on September 20, 2022, the Tenant gave him notice that he was leaving the unit. The Landlord read a text message that he was basing this on. The text message said: "Cool, consider this my last month, I am not paying you an extra thousand dollars"
8. He testified that he asked the Tenant for rent payment on November 20, 2022, and the Tenant did not have it, so he changed the locks.
9. He testified that the Tenant has been in arrears since July 2022 and he "can't wait forever" for the Tenant to pay.

Analysis

10. Section 24 of the *Residential Tenancies Act, 2006* states:

24 A landlord shall not alter the locking system on a door giving entry to a rental unit or residential complex or cause the locking system to be altered during the tenant's occupancy of the rental unit without giving the tenant replacement keys

11. Based on the evidence before me, I find that on November 24, 2022, the Landlord breached section 24 of the Act by altering the locking system and not providing the Tenant with the code to gain entry.
12. The Landlord does not deny that this took place, but attempted to qualify the breach by submitting that the Tenant gave notice to vacate and was in arrears of rent.

13. Section 39 of the Act says:

39 A landlord shall not recover possession of a rental unit subject to a tenancy unless,

- (a) the tenant has vacated or abandoned the unit; or
- (b) an order of the Board evicting the tenant has authorized the possession.

14. The Tenant did not vacate the unit on his own accord and the Landlord did not have an order of the Board evicting the Tenant.

15. Section 22 of the Act states:

Landlord not to interfere with reasonable enjoyment

22 A landlord shall not at any time during a tenant's occupancy of a rental unit and before the day on which an order evicting the tenant is executed substantially interfere with the reasonable enjoyment of the rental unit or the residential complex in which it is located for all usual purposes by a tenant or members of his or her household.

16. The Tenant's section 22 claim is rooted in the Landlord's breach of section 24 of the Act. Since I find that the Landlord illegally changed the locks, I find that this substantially interfered with the Tenant's reasonable enjoyment of the unit.

Remedies

17. The Tenant requests an abatement of rent in the amount of \$12,000.00. This is phrased on the application an award for general damages relating to pain and suffering and will be considered as such.
18. The Tenant testified that when he was locked out of his unit, he had nowhere to go. On the first night he stayed in a motel and then rented rooms from friends, and eventually ended up at his parents' place. He testified that he used to see his children on the weekends, but since he had no secure place to reside, he was unable to see them. He testified that he was supposed to start a new job in December, however he was unable to as he was not able to stay in town or close to where the job was located. The Tenant testified that being locked out caused him great stress and embarrassment.
19. Based on the evidence of impact and my knowledge of similar cases, I find that the Tenant is entitled to \$2,500.00 for general damages relating to pain and suffering.
20. The Tenant requested \$4,200.00 for moving and storage expenses. The Tenant did not submit any documents to substantiate this request. At the hearing, the Tenant testified that he borrowed a truck to get his possessions and spent approximately \$170.00 on gas. I find that this is reasonable, and an order shall issue for same.
21. The Tenant requested \$4,200.00 for out-of-pocket expenses, however, did not provide any documents to substantiate this request. At the hearing, the Tenant testified that he had to stay in a motel for the first night after the lock out which costs \$175.00. He had expenses

relating to toiletries, clothes, and food. He was not permitted to get his stuff from the unit until the middle of December. The Tenant testified that he estimates spending \$400.00 on clothes, \$60.00 on food and \$100.00 on toiletries. Even in the absence of receipts, I find that these expenses flow from being locked out of his unit and are a reasonable estimate. I find that the Tenant is entitled to \$735.00 for out-of-pocket expenses.

It is ordered that:

1. The total amount the Landlord shall pay the Tenant is \$3,405.00. This amount represents:
 - \$170.00 for moving, storage or other like expenses that the Tenant has incur.
 - \$735.00 for the reasonable out-of-pocket expenses the Tenant has incurred.
 - \$2,500.00 for general damages
2. The Landlord shall pay the Tenant the full amount owing by October 7, 2023.
3. If the Landlord does not pay the Tenant the full amount owing by October 7, 2023, the Landlord will owe interest. This will be simple interest calculated from October 8, 2023 at 6.00% annually on the balance outstanding.

September 26, 2023
Date Issued

Emily Robb
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.

