



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

**Citation:** Baxter v Birk- Singh, 2023 ONLTB 36806

**Date:** 2023-05-16

**File Number:** LTB-T-006174-23

**In the matter of:** 7 Queen Street East  
Forest ON N0N1J0

**Between:** Karman Birk-Singh Landlord

**And**

Shelby Baxter Tenant

Shelby Baxter (the 'Tenant') applied for an order determining that Karman Birk-Singh (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 the Tenant's household.

This application was heard by videoconference on April 13, 2023. Only the Tenant attended the hearing.

As of 10:10 a.m., 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 Tenant's evidence.

**Determinations:**

1. As explained below, the Tenant has proven on a balance of probabilities the allegations contained in the application.

2. The tenancy began in or about six years ago. The unit has a kitchen, living room, and three bedrooms. The Landlord took ownership of the rental unit on May 1, 2022.
3. On May 15, 2022, the Tenant met with the Landlord. He stated he wanted to renovate the unit, including new flooring, windows and doors. On the same day, the Landlord asked the Tenant via text message to move out of the rental unit for the renovations. The Tenant states she confirmed with the Landlord that she would leave only for a month for renovations.
4. On June 13, 2022, the Landlord entered the unit without notice and began moving furniture to do renovations. The Tenant states that the discussion with the Landlord was that she would stay in the unit until June 30, 2022 for her children to finish school. The Landlord began tearing down walls, resulting in one wall falling on her belongings. As renovations already began, the Tenant vacated the unit on June 14, 2022. She only brought with her personal items and the Landlord stored the rest of her belongings in a storage unit. The understanding was that she would return to the unit on July 31, 2022.
5. In September 2022, she attended the rental unit to ask for an update. The Landlord said he still had not finished the renovations. She requested an update every month, but she had not received any communication from the Landlord since October 2022. The Tenant attended the unit in October 2022 and her key did not work. The Landlord had changed the locks to the rental unit, and she was not provided with a replacement key.
6. The Tenant states that she has been homeless for almost 1 year with her four children. On June 14, 2022, the Tenant moved in with her mom's friend as a temporary solution. The unit is a small two-bedroom apartment.

### **Illegal entry**

7. I find that the Landlord entered the rental unit illegally on June 13, 2022. The uncontested evidence was that the Landlord did not provide her with any notice to enter the unit on this date when he began renovating the unit.

### **Altered locks**

8. I also find that the Landlord altered the locking system on a door giving entry to the rental unit or residential complex without giving the Tenant replacement keys. The uncontested evidence was that the Tenant returned to her unit in October 2022, and she could not access the unit. The Tenant did not terminate the tenancy as the evidence was that she confirmed with the Landlord that she was vacating the unit for only one month for the renovations. Further, there was no evidence that there was an order from the Board terminating the tenancy. In fact, there was no evidence that the Landlord had served a notice of termination on the Tenant for renovations.

### Substantial interference

9. I find that the actions of the Landlord substantially interfered with the Tenant's reasonable enjoyment. The Tenant has been without a home for several months and is living in cramped conditions due to the actions of the Landlord. Further, the Landlord beginning renovations without providing the Tenant with proper notice resulted in her items being damaged.

### Remedies

10. The Tenant is entitled to an order for damaged, destroyed and disposed of property. The Tenant testified that the Landlord damaged her TV and washer and dryer. The Tenant states that since the wall fell on her belongings, the TV does not turn on and the washer and dryer do not run. Further, the Tenant's daughter's bunkbed and mattresses were left outside for days in the rain when the Landlord began renovating the unit.
11. On a balance of probabilities, I find that the Tenant's TV, washer and dryer, bed and mattresses were damaged as a result of the Landlord's actions. The Tenant did not have adequate time to move her belongings as the Landlord did not provide proper notice to enter the unit for the renovations. As such, I am satisfied the Tenant is entitled to this remedy. The Tenant testified that the items were purchased by her recently and were new. The Tenant is entitled to \$4,200.00 for the TV, washer and dryer, bunkbed and mattresses.
12. The Tenant states that her microwave, stove, and fridge that she purchased still remain in the rental unit. Therefore, I find that the Landlord is in possession of the Tenant's property. The Landlord is ordered to return these items in his possession and control to the Tenant.
13. The Tenant also sought an order to recover possession of the rental unit and that the Landlord not rent the unit to anyone else. I find that the Tenant moved out of the rental unit because of the Landlord's actions and the rental unit is still vacant. The Tenant stated she went to the rental unit and the windows were covered with cardboard. She states that a neighbour has seen someone at the unit, but she does not believe the unit has been re-rented. I am satisfied that the rental unit is vacant. As such, the Tenant is entitled to recover possession of the rental unit.
14. The Tenant is requesting that the Landlord be ordered to pay an administrative fine. Pursuant to the Board's non-binding Interpretation Guideline 16:

An administrative fine is a remedy to be used by the Board to encourage compliance with the *Residential Tenancies Act, 2006* (the "RTA"), and to deter landlords from engaging in similar activity in the future. This remedy is not normally imposed unless a landlord has shown a blatant disregard for the RTA and other remedies will not provide adequate deterrence and compliance.

Administrative fines and rent abatements serve different purposes. Unlike a fine, a rent abatement is intended to compensate a tenant for a contravention of a tenant's rights or a breach of the landlord's obligations.

15. I find that this is an appropriate case for an administrative fine. The Tenant has been unjustly prevented from returning to her rental unit, without any communication from the Landlord and left without a home for several months. In consideration of the breach, the impact on the Tenant and my knowledge of like cases before the Board, I find that \$300.00 is a reasonable amount to deter this behaviour in the future.
16. The Tenant is also entitled to other remedies. The Tenant requested an abatement of rent, but this request is denied as she states she did not pay any rent to the Landlord from June 14, 2022 to present. However, she states that she paid her mother's friend \$1,300.00 a month to contribute to rent. The Tenant had to move into a unit that was not comparable to her rental unit. As such, I find that the Tenant is entitled to reimbursement of these costs as they directly flow from the Landlord's actions. The Tenant is entitled to \$12,905.62 (June 14, 2022 – April 13, 2023).

**It is ordered that:**

1. The total amount the Landlord shall pay the Tenant is \$17,153.62. This amount represents:
  - \$4,200.00 for the reasonable costs that the Tenant will incur to replace property that was damaged as a result of the Landlord's actions.
  - \$12,905.62 for her living expenses at her mother's friend's unit.
  - \$48.00 for the cost of filing the application.
2. The Landlord shall pay the Tenant the full amount owing by May 27, 2023.
3. If the Landlord does not pay the Tenant the full amount owing on or before May 27, 2023, the Landlord will start to owe interest. This will be simple interest calculated from May 28, 2023 at 6.00% annually on the balance outstanding.
4. The Landlord shall pay to the Landlord and Tenant Board an administrative fine in the amount of \$300.00 by May 27, 2023.
5. The Landlord shall immediately allow the Tenant to recover possession of the rental unit and provide the Tenant with keys to the doors of the rental unit and the residential complex.
6. The Landlord shall not re-rent the unit to anyone else.
7. If the Landlord does not allow the Tenant to recover possession of the unit, the Tenant may file this order with the Court Enforcement Office (Sheriff) so that the order may be enforced.

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8. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give possession of the unit to the Tenant.
9. The Landlord shall return to the Tenant the fridge, microwave and stove that is in the possession or control of the Landlord.

**May 16, 2023**

**Date Issued**

\_\_\_\_\_ **Camille Tancioco**

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.