



**Order under Section 69 / 88.1  
Residential Tenancies Act, 2006**

**Citation:** Marda Management Inc. v Berlasty, 2023 ONLTB 30942

**Date:** 2023-04-13

**File Number:** LTB-L-001787-21

**In the matter of:** 1B, 315 DETROIT ST  
WINDSOR ON N9C2P4

**Between:** Marda Management Inc. Landlord

**And**

Mark Berlasty Tenant

2023 ONLTB 30942 (CanLII)

Marda Management Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Mark Berlasty (the 'Tenant') because:

- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant;
- the Tenant or another occupant of the rental unit has committed an illegal act or has carried out, or permitted someone to carry out an illegal trade, business or occupation in the rental unit or the residential complex;
- the Tenant, another occupant of the rental unit or a person the Tenant permitted in the residential complex has seriously impaired the safety of any person and the act or omission occurred in the residential complex.

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

Marda Management Inc. (the 'Landlord') also applied for an order requiring Mark Berlasty (the 'Tenant') to pay the Landlord's reasonable out-of-pocket expenses that are the result of the Tenant's conduct or that of another occupant of the rental unit or someone the Tenant permitted in the residential complex. This conduct substantially interfered with the Landlord's reasonable enjoyment of the residential complex or another lawful right, privilege or interest.

This application was heard by videoconference on September 15, 2022.

The Landlord's Legal Representative, K. Passell and the Tenant attended the hearing.

This application was heard with LTB-L-001784-21. The incidents alleged in both notices are the same, the Tenants in unit 1b and unit 2 are brother and sister.

**Determinations:**

1. The Landlord's legal representative submits that they are not relying on the N5 Notice of termination, they wish to proceed only on the N6 and N7 Notices of termination.
2. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy.
3. The Tenant was in possession of the rental unit on the date the application was filed.
4. N6 Notice of Termination and N7 Notice of Termination

On November 23, 2021, the Landlord gave the Tenant an N6 and N7 notice of termination deemed served on November 28, 2021. The notices of termination contain the following allegations:

- On February 16, 2021, the Tenant interfered with and damaged the camera system on the property, rendering it inoperable.
- On October 14, 2021, the Tenant harassed and threatened management employee
- On October 18, 2021 the Tenant threatened repeatedly to cut off management employee's fingers if he cut down the tree out front of the complex.
- On October 18, 2021, the Tenant threatened physical harm to the contractor who attended the property to cut down a tree.

#### Landlord's evidence

5. The Landlord submits that the Landlord installed security cameras in the common hallways at the residential complex as a result of Tenants propping open doors and allowing anyone entry into the building. On February 16, 2021, the Tenant is seen on camera covering the camera with a piece of paper. It remained covered until an employee removed the piece of paper and made corrections to the camera system.
6. The Landlord's witness P.P testified that he was working as a property manager for Marda Management during the timeframe alleged in the notices.
7. P.P testified that on October 14, 2021, he attended the residential complex to post a notice of work being done on October 18, 2021. After he posted the notice, he received a phone call from the Tenant, T. Berlasty and her brother, M. Berlasty (in unit 1B). T Berlasty was screaming at him, asking him why he was going to cut the tree down. M. Berlasty was screaming in the background. He explained to her that he was just posting the notice, and the decision to cut down the tree was not his. Both Tenants started screaming that if he came near the tree, they would cut his fingers. He testified that they said it over and over again for 3 or 4 minutes. He testified that their voices sounded very angry. He explained again that he just posted the notice and then hung up the phone. He testified that he felt threatened and scared and that they would make good on their threat. He testified that after that, he did not attend the property for at least two or three months and after that, he always attended with someone else.
8. G. Bernier testified on behalf of the Landlord. He testified that he is a contractor. He testified that on October 18, 2021, he attended the unit around 2:00 p.m. to cut down a tree. As he began, Mark Berlasty asked him what he was doing, and he explained he was

cutting down some trees. G. Bernier testified that M. Berlasty said to “if you come near this tree, you are getting your faced punched in”. G. Bernier testified that he called the police. M. Berlasty was told to leave the property while the trees were being cut down if he was upset by it. M. Berlasty continued to yell from the balcony and was then joined by his sister, T. Berlasty who also started yelling and swearing about the trees. The police stayed until G. Bernier completed the job. G. Bernier testified that he felt threatened and that when he was going to leave, M. Berlasty yelled down “you’ll pay for what you are doing.” G. Bernier testified that he felt threatened by this exchange.

9. The Landlord submitted a police report dated October 18, 2021.

#### Tenants evidence

10. The Tenant testified that the camera, from his perspective was pointing right into his front door. He testified that he covered up the camera with a piece of tape. He testified that the Landlord removed the piece of tape.
11. The Tenant denies that he was part of the telephone call on that took place on October 14, 2021. He testified that his sister, T. Berlasty made that phone call.
12. The Tenant testified that on October 18, 2021, he had an interaction with the Landlord’s contractor regarding trees on the property that were being cut down. He asked the contractor if he had permits to cut the tree down and the contractor stated that he did not need one. The Tenant testified that he called the police because he wanted to see a permit and didn’t want a good healthy tree being cut down. The Tenant testified that he took care of the tree for 19 years and was upset that it was being cut down. He testified that the police attended and advised him that the Landlord can cut down the tree. He testified that he then went back to his apartment. He testified that he went up to his sister’s apartment while the contractor was still there and stood on the balcony. When asked why he went up to his sister’s apartment, he testified that she is his sister and he can go up there when he wants.
13. I am not satisfied, on a balance of probabilities, that the incident with the camera constitutes willful damage. I am not persuaded that the act of putting a piece of tape over the lens of the camera damaged it. The Landlord and the Tenant both testified that an employee of the Landlord attended and removed the piece of tape.
14. Based on the evidence before me, on a balance of probabilities, I find that the Tenant threatened the contractor on October 18, 2021. It is more likely than not that it was the behaviour of the Tenant that made the contractor call the police, and not the Tenant because the contractor didn’t have permits. This is supported by the police report that was submitted by the Landlord, that shows the caller being the contractor. The police remained at the complex until the contractor was finished. The Tenant testified that he was upset about the tree being cut down and that he took care of the tree for 19 years. I believe that the Tenant is minimizing his part in the altercation that took place on October 18, 2021.
15. In the application the Landlord requested \$150.00 under section 88.1 of the Act. The application details this to be for the extra time the contractor had to spend at the unit on

October 18, 2021 due to waiting for the police to attend. The Landlord did not submit any evidence, such as an invoice detailing the extra time, and charge for the extra time spent at the complex by the contractor on October 18, 2021. As such, this claim is dismissed.

Relief from eviction

16. The Tenant testified that he has lived in her unit for 19 years. He is on a fixed income and cannot afford anywhere else. He has medical issues and his doctor is in the area, and he needs to remain close to where his doctor is.
17. The Landlord is seeking eviction.
18. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would not be unfair to grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act. This is a long-standing tenancy and one that I believe can be maintained if the Tenant follows the conditions set out in this order.

**It is ordered that:**

1. The tenancy between the Landlord and the Tenant continues if the Tenant meets the conditions set out below.
2. The Tenant shall not engage in threatening behaviour towards the Landlord, or any employee or contractor of the Landlord.
3. If the Tenant fails to comply with the conditions set out in paragraph 2 of this order, the Landlord may apply under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') for an order terminating the tenancy and evicting the Tenant. The Landlord must make the application within 30 days of a breach of a condition. This application is made to the LTB without notice to the Tenant.
4. The Tenant shall pay to the Landlord \$186.00 for the cost of filing the application.
5. If the Tenant does not pay the Landlord the full amount owing on or before April 30, 2023, the Tenant will start to owe interest. This will be simple interest calculated from May 1, 2023 at 6.00% annually on the balance outstanding.

**April 13, 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.

