



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

Citation: Brown v Malabver, 2023 ONLTB 82303

Date: 2023-12-22

File Number: LTB-T-083949-23

In the matter of: Basement, 18 GOLD HILL RD BRAMPTON
ON L6X4V2

Tenant

Between: Oscar Brown

And

Marcia Malabver

Landlord

Oscar Brown (the 'Tenant') applied for an order determining that Marcia Malabver (the 'Landlord') altered the locking system on a door giving entry to the rental unit or residential complex without giving the Tenant replacement keys.

This application was heard by videoconference on December 4, 2023.

The Tenant, the Tenant's representative Raiessa Mahabir and the Landlord 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 allow the Tenant to recover possession of the rental unit.
2. The tenancy commenced on April 15, 2019. The Tenant, Oscar Brown (OB), testified he had a good relationship with the Landlord until January 2023, at which time a dispute arose regarding a rent increase. Since then, OB testified the parties' relationship has deteriorated and the Landlord has made unfounded allegations against him.

3. On October 17, 2023, the Tenant received a note from the Landlord stating that plumbing work will be performed in the rental unit. When OB returned from work on October 19, 2023 he discovered that the locks to the rental unit had been changed and there was a notice on the door that said contact police. As a result of being locked out of the rental unit, the Tenant was deprived of his items and forced to stay with a friend. The Tenant seeks to have possession reinstated.
4. The Landlord admits to locking the Tenant out of the rental unit on October 19, 2023. The Tenant elaborated she lives upstairs and was concerned for her safety as a result of an unwanted advance purportedly taken by the Tenant years prior. If the Landlord believes there are grounds to terminate the tenancy, the Landlord has the right to pursue available remedies in accordance with the Act; the Landlord is not entitled to employ a self-help remedy, as was done here. Based upon the evidence presented, and the Landlord's own admission, I find the Landlord altered the locking system on a door giving entry to the rental unit or residential complex without giving the Tenant replacement keys.
5. While the Tenant's T2 Application omitted to check "*Remedy 9: The Landlord must allow me to move back into the rental unit and must not rent the unit to anyone else*", on the application the Tenant answered "*I don't know*" if the unit was vacant. The Tenant's application clearly outlined the allegation that the Landlord changed locks without giving the Tenant replacement keys, which formed the subject matter of the application and hearing. Moreover, the Tenant requested an order under "*Remedy 11: I want the LTB to order other remedies*". It was confirmed at the hearing that the rental unit is still vacant and pursuant to Remedy 11, the Landlord shall be ordered to allow the Tenant to move back into the rental unit.
6. The Tenant's application also requested out-of-pocket expenses in the amount of \$200.00 because of the Landlord's actions, but very little evidence was given in respect of this expense, nor was an invoice of other supporting documentation tendered in support. This claim is denied. The Tenant incurred the cost of filing this application and shall be entitled to reimbursement of this expense.

It is ordered that:

1. 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.

2. 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.
3. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give possession of the unit to the Tenant.
4. The Part of this order allowing the Tenant to recover possession of the unit expires and cannot be enforced if a) The Tenant does not file this order on or before January 6, 2024 with the Court Enforcement Office (Sheriff) which has territorial jurisdiction where the rental unit is located, or (b) The Tenant files this order with the Court Enforcement Office but the order has not been enforced on or before February 5, 2024.
5. The Landlord shall pay the Tenant \$48.00 for the cost of filing the application. If the Landlord does not pay the Tenant the full amount owing by January 2, 2024, the Landlord will owe interest. This will be simple interest calculated from January 3, 2024 at 7.00% annually on the balance outstanding.

December 22, 2023
Date Issued

Peter Nicholson
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.

In accordance with section 81 of the Act, the part of this order relating to the eviction expires on if the order has not been filed on or before this date with the Court Enforcement Office (Sheriff) that has territorial jurisdiction where the rental unit is located.

