



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

**Citation:** Obah v Homestead Land Holdings Ltd, 2023 ONLTB 14126

**Date:** 2023-01-09

**File Number:** LTB-T-041471-22

**In the matter of:** 511, 2969 Kingsway Drive  
Kitchener ON N2C2H7

**Between:** Precious Imade Obah Tenant

**And**

Homestead Land Holdings LTB Landlord

Precious Imade Obah (the 'Tenant') applied for an order determining that Homestead Land Holdings Ltd (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.
- harassed, obstructed, coerced, threatened or interfered with the Tenant.

This application was heard by videoconference on September 6, 2022.

The Landlord’s Legal Representative Tanya Rose, the Landlord’s Agent Chris Ormsby and the Tenant attended the hearing.

At the outset of the hearing the parties consented to amend the application to name “Homestead Land Holdings Ltd” as the Landlord vice Chris Ormsby who is an employee of the Landlord. The Board granted this request.

**Determinations:**

1. As explained below, the Tenant has proven on a balance of probabilities the allegations contained in the application. Therefore, the Landlord must compensate the Tenant.
2. This was a fixed term tenancy set to expire in November 2021. The Tenant had requested to terminate the lease sooner and vacate sooner for personal reasons.

3. The Tenant testified that she spoke with “Brittany” in the office about vacating at the end of July 2021, and that eventually, it was agreed that the Landlord would permit her to vacate at the end of the lease in November 2021. The Tenant understood that Brittany had explained that she could sub-lease to someone else for the five months but that she would be responsible for the monthly rent. Otherwise the Landlord would deny the early termination of the lease.
4. The Tenant had left her key with a neighbour in order to give it to the sub-tenant when they arrived. The Landlord denied entry on basis that they had declined his application.
5. The Tenant had arranged for movers on June 26, 2021, however they refused to pick up some of the Tenants’ possessions. The movers indicated that some furniture had been marked as “infected do not carry through building”. The movers advised the Tenant that they had been told by the Landlord that the rental unit was infested with bed bugs and cockroaches, but that upon inspection they could not find any.
6. Other movers come on July 8 or 9, 2021 to pick up any remaining Tenant possessions. The Tenant indicated that the movers advised her that the Landlord had denied them access.
7. The Tenant testified that she had found someone to be a sub-tenant for the 5 months remaining on the lease. She had advised the Landlord on June 9, 2021. She testified that on June 28, 2021 she had been called by her neighbour stating that the new sub-tenants had been denied entry and were locked out of the rental unit. It was shortly thereafter the Landlord emailed her to say they had denied the request to permit the sub-tenancy.
8. The Tenant testified that the Landlord had refused to let her off the lease early, and that the Landlord insisted throughout that no matter what, she would be responsible for rent even if sub-let.
9. The Tenant submitted that by denying her request to terminate early and refusing to permit a sub-tenancy that the Landlord had interfered with her reasonable enjoyment of the rental unit. Further, that by denying access to movers and spraying “infected do not carry through building” on her appliances they had also interfered with her reasonable enjoyment.
10. The Landlord’s Agent testified. He could not recall why the notice to terminate had been changed to the later date of November 2021. He testified that the Landlord does not permit sub-letting and that is why they denied entry to the new sub-tenants.
11. The Agent denied that the Landlord had advised the movers of a bedbug and cockroach infestation or that the movers had advised them of seeing any bedbugs or cockroaches. He also denied that the Landlord has spray painted the warnings on the appliances.

12. The Agent testified that Homestead had decided to terminate the lease as of July 31, 2021. However, there was no indication of when or if the Tenant had been advised of this. The submissions of the Landlord show that the Landlord would be deeming the unit abandoned as of July 12, 2021 and that the Landlord would subsequently dispose of any remaining contents in the rental unit.
13. The Board does not find the testimony of the Landlord's Agent credible. He could not recall the circumstances surrounding the changes to the notice of termination, and the discussions about sub-letting. He could not recall what happened or what responses if any had been given to the Tenant throughout this time period. However, he clearly indicated that the Landlord does not permit a Tenant to sub-let or permit "unauthorized occupants". It may also be that since someone else (Brittany) had had those discussions with the Tenant that the Agent Chris Ormsby was not aware. However, the Landlord did not try to explain this, thus leaving the Tenant's testimony regarding what Brittany had advised as uncontested. It is not sufficient for one employee to testify to deny the actions of another employee who is not called upon to testify. This has left the Landlord with contradictory evidence from their own employees.
14. The Board finds that the testimony of the Tenant was more reliable. She was able to explain her story of what happened, was able to recall who she had spoken to in the office, and her efforts to sub-let so that she would not have to pay rent in two locations. It is more likely the Tenant moved out, arranged for movers after having these discussions with the Landlord and having found someone to sub-let for five months. These do not appear to be the actions of someone abandoning the rental unit, or their possessions. It is more likely that she acted on the advice from the Landlord and was doing so in good faith.
15. Therefore, I find that the Landlord had denied entry to a sub-tenant, effectively locking out the Tenant, by unreasonable refusing to permit a sub-tenancy. The Landlord's stated policy of denying any sub-let appears to contradict the advice given to this Tenant to the Tenant's detriment.
16. Therefore, I find that the Landlord 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. The Landlord failed to clearly state a policy on sub-letting leading the Tenant to believe it was the only solution to permit her to get out of her lease early. The Landlord failed to communicate with the Tenant that they had effectively terminated her lease as of July 31, 2021. Once the Tenant moved out, the Landlord had taken complete control over access, and would not permit anyone access unless provided by the Landlord. On a balance of probabilities, the Board finds that the Landlord is responsible for the spray painting of the appliances and for fact that the movers refused to move some furniture, not just once but twice, because the Landlord indicated the furniture was infested.

17. The Tenant had moved out and had arranged for movers to remove her possessions after that. The Landlord confirmed that rent for July had been paid, therefore, the Landlord cannot claim that the unit was abandoned in early July when they took control of the unit previously. The Landlord effectively locked out the Tenant, in the guise of preventing illegal occupants.
18. The Tenant was seeking two months rent compensation. One month rent compensation was for the rent deposit that the Landlord refused to reimburse to the Tenant. The second was for the month of July 2021, after the Tenant had vacated and the Landlord refused entry to the sub-tenants, although the Tenant had paid the July rent. I am satisfied that since the Landlord took possession of the rental unit in late May in order to control access that the Tenant should be reimbursed for July rent.
19. The Landlord confirmed that they are still holding the rent deposit and they will be refunding that to the Tenant. This shall be ordered.
20. The Tenant was also seeking reimbursement for the costs to replace her property that had been damaged or disposed of because of their actions. In this regard, the Tenant testified that the freezer was full of foodstuff shipped from Africa. She was also seeking to replace two queen size beds and a double bed plus two big storage cans for kids toys, a reading table and a chair.
21. There were no submissions as to age condition or costs of these items. The Landlord also did not provide any indication of what possessions they had disposed of. In all of the circumstances, the Board is satisfied that an award for damages in the amount of \$3000.00 is reasonable as compensation to replace property that had been damaged and disposed of by the Landlord.
22. The Tenant was seeking an order that the Tenancy is terminated as of July 31, 2021. Since Board finds that the Landlord took possession of the rental unit at the end of May, and interfered with movers attempts to move the Tenants' possessions in late June 2021 that the Tenancy should be terminated as of June 30, 2021.
23. The Tenant was also seeking that the Board order a fine to the Landlord for the Landlord's conduct. I am not satisfied that this situation warrants a fine and as such will not order a fine.

**It is ordered that:**

1. The Tenancy between the Landlord and the Tenant is terminated as of June 30, 2021.
2. The total amount the Landlord shall pay the Tenant is \$5,629.64. This amount represents:
  - \$1,290.82 for a rent reimbursement for the month of July 2021.
  - \$1290.82 plus interest for the rent deposit held by the Landlord if not already reimbursed to the Tenant.
  - \$3,000.00 for the reasonable costs that the Tenant will incur to replace property that was damaged and or disposed of as a result of the Landlord's actions.
  - \$48.00 for the cost of filing the application.
3. The Landlord shall pay the Tenant the full amount owing by January 20, 2023.
4. If the Landlord does not pay the Tenant the full amount owing by January 20, 2023, the Landlord will owe interest. This will be simple interest calculated from January 24, 2023 at 5% annually on the balance outstanding.

**January 9, 2023**  
**Date Issued**

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Robert Patchett  
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.