



**Order under Section 100
Residential Tenancies Act, 2006**

Citation: Toronto Community Housing Corp. v Brown, 2022 ONLTB 13993

Date: 2022-12-08

File Number: LTB-L-073498-22
(TEL-14671-21)

In the matter of: 211, 3847 Lawrence Avenue East
Toronto Ontario M1G1R5

Between: Toronto Community Housing Corp, Toronto Community Housing Corp, Toronto Community Housing Corp, Toronto Community Housing Corp. Landlord

And

Nordia Therese Brown Tenant

Steve Stanley Brown Unauthorized Occupant

Your file has been moved to the Landlord and Tenant Board’s new case management system, the Tribunals Ontario Portal. Your new file number is LTB-L-073498-22

Toronto Community Housing Corp, Toronto Community Housing Corp, Toronto Community Housing Corp. (the 'Landlord') applied for an order to terminate the tenancy of Nordia Therese Brown(the 'Tenant') and evict Steve Stanley Brown Brown(the “Unauthorized Occupant”) and for compensation for the use of the rental unit.

This application was heard by videoconference on October 13, 2022.

The Landlord’s Legal Representative, L. Macphee and the Tenant and the Unauthorized Occupant attended the hearing.

B. Cortezi testified on behalf of the Landlord.

Determinations:

1. The evidence before me establishes that the Tenant transferred occupancy of the rental unit to SB in a manner that was not authorized by the *Residential Tenancies Act, 2006* (the ‘Act’).
2. The agent for the Landlord testified that they first became aware that SB was occupying the unit on July 10, 2020.

3. On July 9, 2020, TCH staff attended the unit to deal with an unwanted guest call. When they arrived at the unit, S.B. had called to have his ex-girlfriend removed from the unit. The Landlord's agent testified that it was clear that the ex-girlfriend had been living in the unit with S.B. The Ex-girlfriend left the unit that day with her child. This incident is what alerted the Landlord that S.B. was occupying the unit. When S.B was asked where the Tenant was, S.B said that he was the Tenant.
4. On July 10, 2020, The Landlord spoke with the Tenant, N.B who advised the Landlord that she hasn't been living in the unit for months, and that she moved in with her mother. The Tenant gave the Landlord permission to change the locks to the unit, but when the Landlord attempted to, the unauthorized occupant would not allow it and became angry.
5. The Tenant did not challenge any of the Landlord's evidence on cross examination.
6. The Tenant testified that she hasn't slept in the unit in over a year. She testified that her brother, S.B helped care for her and stayed at the unit occasionally to assist her. When the Tenant was asked if she lives in the unit, she testified that she "comes and goes".
7. S.B, the unauthorized occupant, testified that he doesn't live in the unit, his sister, the tenant does. He Testified that his sister should not be evicted. He testified that he lives in Oshawa, then testified that he lives in Scarborough. He testified that he helps his sister occasionally with personal care.
8. I find that the Tenant transferred occupancy of the unit to S.B in a manner that is not authorized by the Act.
9. I find the Tenant's testimony to be very vague when asked about living at the unit, at first, she said yes, then she said she hasn't slept in the unit for over a year and that she comes and goes. The Tenant denies speaking to the Landlord back in July of 2020 about moving to her mother's address, however, I prefer the Landlord's evidence over that of the Tenant. The Landlord produced documentation including letters sent to the Tenant summarizing conversations they had back in July 2020. The Landlord also had the address the Tenant told them she moved to. I also find the Unauthorized Occupant's testimony to be vague on whether or not he is living in the unit. I find, on a balance of probabilities, that he is occupying the rental unit, and his interest in the tenancy continuing is so that he can continue to live there. His testimony was not clear when asked where he was currently living.
10. The unauthorized occupant was in possession of the rental unit on the date the application was filed.
11. 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. Section 83 of the Act pertains to Tenants, not occupants, as such I am not satisfied that any further delay is appropriate.
12. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated as of July 10, 2020.
2. The unauthorized occupant shall move out of the rental unit on or before December 19, 2022.
3. If the unit is not vacated on or before December 19, 2022, then starting December 20, 2022, the Landlord may file this order with the Court Enforcement Office (Sheriff), so that eviction may be enforced.
4. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord on or after December 20, 2022.
5. The Unauthorized Occupant shall pay to the Landlord \$49.05 per day for compensation for the use of the unit from July 10, 2020 to the day they move out of the rental unit.
6. The unauthorized occupant shall also pay the Landlord \$201.00 for the cost of filing the application.
7. If the Unauthorized Occupant does not pay the Landlord the full amount owing on or before December 19, 2022, the Unauthorized Occupant will start to owe interest. This will be simple interest calculated from December 20, 2022 at 4.00% annually on the balance outstanding.

December 8, 2022
Date Issued

Emily Robb
Member, Landlord and Tenant Board

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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.