



## Order under Section 100 Residential Tenancies Act, 2006

**Citation:** Shah v Seyaie, 2024 ONLTB 73980

**Date:** 2024-10-02

**File Number:** LTB-L-093746-23

**In the matter of:** Apt 96, 400 MISSISSAUGA VALLEY BLVD  
MISSISSAUGA ON L5A3N6

**Between:** Minesh Shah  
Poornima Shah

I hereby certify this is a  
true copy of an Order dated

Landlords

**And**

**OCT 02, 2024**

Vahid Seyaie

Tenant

Landlord and Tenant Board

**And**

Habib N/A  
To Unknown  
Unknown Unknown  
Unknown Unknown  
Unknown Unknown

Unauthorized Occupants

Minesh Shah and Poornima Shah (the 'Landlords') applied for an order to terminate the tenancy of Vahid Seyaie (the 'Tenant') and evict Habib N/A, and four Unknown Occupants (the 'Unauthorized Occupants' or 'Occupants') because the Tenant transferred occupancy of the rental unit to the Unauthorized Occupants without the Landlords' consent. The Landlords also applied for compensation by the Unauthorized Occupants for the use of the rental unit.

This application was heard by videoconference on September 25, 2024.

The Landlord Minesh Shah, the Landlord's legal representative, Alta Choudry, and the Tenant attended the hearing.

As of 9:36 a.m. the Unauthorized Occupants were 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 evidence of the Landlords and the Tenant.

### Determinations:

1. The Tenant transferred the occupancy of the rental unit to the Unauthorized Occupants in a manner that was not authorized by the *Residential Tenancies Act, 2006* (the 'Act'). The Landlords did not enter into a tenancy agreement with these persons.

2. The Landlord Minesh Shah attended the rental unit on October 24, 2023 after issuing a notice of entry, and was greeted by unknown occupants who were not the Tenant or the Tenant's family. He introduced himself as the Landlord, which surprised the Occupants who said Vahid Seyaie, the Tenant had introduced himself to them as the Landlord and they were paying rent to him. The Occupants were students, one of whom provided their name as 'Habib'. The Occupants agreed that there were 5 unrelated people living in the unit, each separately paying rent to the Tenant, and the Tenant did not live in the rental unit. This conversation was recorded by a video/surveillance camera which was entered into evidence.
3. One of the Occupants provided an affidavit sworn on September 19, 2024. The affidavit, sworn by Habeebullah Hameed, states that he lived in the rental unit from October 1, 2023 to February 29, 2024. He found the unit listed on kijiji and Vahid Seyaie acted as the Landlord, collected rent payments, and never lived at the property during his tenancy or occupancy.
4. Kijiji ads for the property listed by the Tenant were entered as evidence.
5. The Tenant confirmed that he does not live at the property. He says that in 2023 his work slowed down and his wife started a dog watching business. The Landlord served an N5 to stop the activity, so he found another house from which he and his wife could run the dog watching business. The other house was more expensive so he decided to take on roommates at the rental unit to help cover the cost, making a profit on the income from the additional occupants at the rental unit. He deliberately used a roommate agreement template from 'roomies' which identifies him as 'head-tenant' rather than landlord so that he can remove the occupants at any time and can move back into the unit if his situation changes. He submits that his driver's licence has the rental unit address as his address, his bills go there, and he has possessions in the garage so he is living in the rental unit as well as the other house with his wife where they run the dog business.
6. The Tenant agrees that he did not ask the Landlords' permission for the arrangement with the additional occupants.
7. Based on the testimony of the Tenant that he resides in another location, the affidavit evidence that the Tenant didn't live in the rental unit while collecting rent from 5 individuals, and the video evidence in which the Occupants state that the Tenant does not reside at the rental unit, I find that the Tenant does not live at the rental unit. As he does not live in the rental unit and is collecting rent from others who do live there, he has transferred the occupancy without consent from the Landlords in violation of the Act. Therefore the Occupants are Unauthorized Occupants.
8. The Unauthorized Occupants were in possession of the rental unit on the date the application was filed.
9. The application was filed on November 3, 2023, within 60 days after the Landlords discovered the unauthorized occupancy on October 24, 2023.

Daily Compensation

10. The Landlords are entitled to compensation for the use and occupation of the rental unit by the Unauthorized Occupants.
11. Based on the Monthly rent, the daily compensation is \$93.16. This amount is calculated as follows: \$2833.60 x 12 months, divided by 365 days.
12. The Landlords incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs. The Tenant will be responsible for this amount; they chose to rent out the unit to multiple unauthorized occupants despite being advised by the Landlords that it was not permissible to do so.

### Section 83 Considerations

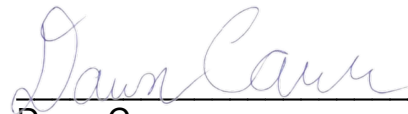
13. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would not be unfair to postpone the eviction until October 31, 2024 pursuant to subsection 83(1)(b) of the Act. The Unauthorized Occupants likely believe they were paying rent to the proper landlord and may be surprised by this outcome. I find it reasonable to allow them until the end of the month to make arrangements for new accommodations. This delay will not prejudice the Landlords because the rent is up to date so the risk of financial prejudice is minimal. Although the current arrangement is in violation of the condo rules and the condo board has been in contact with the Landlord about this violation, in my experience with other condo board cases an eviction order or an active application before the LTB which would resolve the violation usually satisfies the condo board.

### **It is ordered that:**

1. The tenancy between the Landlords and the Tenant is terminated.
2. The Unauthorized Occupants shall move out of the rental unit on or before October 31, 2024.
3. If the unit is not vacated by October 31, 2024, then starting November 1, 2024, the Landlords may file this order with the Court Enforcement Office (the Sheriff), so that the 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 Landlords after November 1, 2024.
5. The Unauthorized Occupants shall pay to the Landlords \$93.16 per day for compensation for the use of the unit from October 1, 2024 to the date they move out of the unit.
6. The Tenant shall pay the Landlords \$201.00 for the cost of filing the application.
7. The Tenant shall pay the Landlords the full amount owing by October 13, 2024.

8. If the Tenant does not pay the Landlords the full amount owing by October 13, 2024 they will owe interest. This will be simple interest calculated from October 14, 2024 at 6.00% on the outstanding balance.

**October 2, 2024**  
**Date Issued**

  
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Dawn Carr  
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 May 1, 2025 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.