



Order under Section 100 Residential Tenancies Act, 2006

File Number: LTB-L-036412-25

In the matter of: 201, 111 Craydon Road
Whitby Ontario L1N2B5

Between: One Brick Investments Inc Landlord

And

Francesco Serra Tenant

And

Benjamin Serra Unauthorized Occupant

One Brick Investments Inc (the 'Landlord') applied for an order to terminate the tenancy of Francesco Serra (the 'Tenant') and evict Benjamin Serra (the 'Unauthorized Occupant') because the Tenant transferred occupancy of the rental unit to the Unauthorized Occupant without the Landlord's consent. The Landlord also applied for compensation by the Unauthorized Occupant for the use of the rental unit.

This application was heard by videoconference on December 2, 2025.

The Landlord's legal representative, Ian Shemesh, the Landlord's agent, Jeff Walker, the Tenant's legal representative, Patrick Morrissey, the Unauthorized Occupant, Benjamin Serra, the unauthorized occupant support Janet Flint, the unauthorized occupants support, Terri-Lynn Da Ville, attended the hearing.

Determinations:

1. The Tenant did not transfer the occupancy of the rental unit to the Unauthorized Occupant in a manner that was not authorized by the *Residential Tenancies Act, 2006* (the 'Act'). The Landlord did not enter into a tenancy agreement with this person. The Landlord's A2 application was filed on April 29, 2025, and alleges that the Tenant transferred occupancy of the rental unit in a manner that is unauthorized under the *Residential Tenancies Act, 2006* (the Act).
2. The Unauthorized Occupant was in possession of the rental unit on the date the application was filed.
3. The application was filed within 60 days after the Landlord discovered the unauthorized occupancy.

Landlord evidence

4. The Landlord called Jeff Walker (JW) who is the Landlord's property manager since February 2022 as witness. JW testified that 2144105 Ontario Limited (sellers) sold the residential complex to One Brick Investments Inc. (Landlord) At that time the sellers handed over all documentation pertaining to the rental units to the new Landlords. A copy of the offer to lease was submitted into evidence showing the deceased Tenant, Francesco Serra as the only named tenant. At no time was there any amendments or a new lease entered into between the parties naming the unauthorized occupant as a tenant. JW testified that the Tenant never asked to assign BS as a tenant and there is nothing in the Tenant file from the seller that states otherwise.
5. The Landlord has an online portal in which tenants could pay their lawful monthly rent by automatic payments from their bank account. There is no dispute that the April and May 2025 rent was paid.

Unauthorized occupant's evidence

6. The unauthorized occupant, Benjamin Serra (BS) testified that his father entered into a lease agreement with the Landlord in the summer of 2013, when he was 12 years old, and they both resided in the rental unit. BS submits that since 2021 he was paying \$500.00 monthly to his father towards the rental unit.
7. The unauthorized occupant testified that his father passed away on March 16, 2025, and a copy of the death certificate was submitted into evidence. BS is the estate trustee and sole beneficiary. BS is 23 years of age, works full time with an income of \$5,500.00 a month.
8. On April 7, 2025, BS attended the property management's office to notify them that his father is deceased, and he wants to continue to occupy the rental unit. BS testified and the Landlord did not dispute that each month since May 2025 he has been delivering cheques to the Landlord, but none have been cashed.
9. The Tenant's legal representative submitted that on April 14, 2025, a letter was sent to the property management's office advising them that BS wants to remain in the rental unit. The property management company replied that the Landlord will be bringing an A2 application and advised against making rent payments until the matter was heard at the LTB.
10. In addition, the Tenant's legal representative relied on section 13 of the *Evidence Act*, which provides that an interested party cannot succeed in a claim based solely on their own evidence unless it is corroborated by other material evidence. The Tenant's representative submitted that the Landlord failed to provide an Agreement of Purchase and Sale demonstrating that a transfer of ownership occurred between the seller and the current Landlord. It was further argued that, as the former owner is deceased, they are unable to testify or contradict the assertion that a transfer of ownership did not occur.
11. As a result, an interim order was issued to address this issue. Based on the submissions subsequently received, including evidence from the land title registry, I am satisfied that

the Applicant meets the definition of "landlord" under the Act and was therefore entitled to file the application and obtain the resulting order.

Analysis

12. Pursuant to s. 91(1) of the Act if a tenant of a rental unit dies and there are no other tenants of the rental unit, the tenancy shall be deemed to be terminated 30 days after the death of the tenant. The only exception to s. 91(1) is where there is a sitting spouse who has the right to elect to continue the tenancy. As there was no spouse in possession in the case before me, the Estate essentially became an overholding tenant as of April 15, 2025.
13. Based on the evidence before me, the Estate transferred occupancy of the rental unit to the Unauthorized Occupant in a manner that was not authorized by the Residential Tenancies Act, 2006 (the 'Act'). The Landlord did not enter into a tenancy agreement with this person. I say this as the tenancy agreement was only between the Tenant and the Landlord, as evidenced by the lease agreement entered into the Board's record.

Daily Compensation

14. The Landlord is entitled to compensation for the use and occupation of the rental unit by the Unauthorized Occupant.
15. The Unauthorized Occupant owes the Landlord \$9,295.20 in daily compensation for use and occupation of the rental unit for the period from April 7, 2025 to the December 2, 2025.
16. Based on the Monthly rent, the daily compensation is \$38.73. This amount is calculated as follows: \$1178.08 x 12 months, divided by 365 days.
17. Since the Landlord became aware of the Unauthorized Occupant, the Tenant and/or the Unauthorized Occupant paid the Landlord \$0.00 in compensation for use of the rental unit.
18. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.

Section 83 Considerations

19. The Landlord is looking for termination of tenancy effective April 15, 2025 pursuant to s.91(1) of the Act.
20. The unauthorized occupant sound the Board's consideration to deny the eviction or delay the eviction as he has lived in the rental unit since he was 12 years old. He would require more time to locate a new rental unit.

21. 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 February 28, 2026 pursuant to subsection 83(1)(b) of the Act.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated.
2. The Unauthorized Occupant shall move out of the rental unit on or before February 28, 2026.
3. If the unit is not vacated by February 28, 2026, then starting March 1, 2026, the Landlord 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 Landlord after March 1, 2026.
5. The Unauthorized Occupant shall pay to the Landlord \$9,295.20 which represents daily compensation for the use of the rental unit from April 7, 2025 to the December 2, 2025.
6. The Unauthorized Occupant shall also pay to the Landlord \$38.73 per day for compensation for the use of the unit from December 3, 2025 to the date they move out of the unit.
7. The Unauthorized Occupant shall also pay the Landlord \$201.00 for the cost of filing the application.
8. The Unauthorized Occupant shall pay the Landlord the full amount owing by February 28, 2026.
9. If the Unauthorized Occupant does not pay the Landlord the full amount owing by February 28, 2026 they will owe interest. This will be simple interest calculated from March 1, 2026 at 4.00% on the outstanding balance.

January 5, 2026

Date Issued

Teresa Hunt

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 August 28, 2026 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.