



Order under Section 100 Residential Tenancies Act, 2006

Citation: Bower v Luby (Deceased), 2026 ONLTB 2899

Date: 2026-01-09

File Number: LTB-L-059689-25

In the matter of:

Between: Julian Bower Landlords
2050736 Ontario Inc

And

Lisa Luby (Deceased) Tenant

And

Phillip Gendron Unauthorized Occupant

Julian Bower and 2050736 Ontario Inc (the 'Landlords') applied for an order to terminate the tenancy of Lisa Luby (Deceased) (the 'Tenant') and evict Phillip Gendron (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 November 14, 2025. The first named Landlord, the Unauthorized Occupant (now Tenant), and their legal representative, A. Budhwa attended the hearing.

Determinations:

1. The Tenant may have transferred 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').
2. The Unauthorized Occupant was in possession of the rental unit on the date the application was filed.
3. The application was not filed within 60 days after the Landlords discovered the unauthorized occupancy.
4. There is no dispute that the Tenant originally occupied the rental unit from at least 1994. The 'Unauthorized Occupant' was residing with her for at least the last 15 years as her partner. Mr. Bower says that on April 2, 2025, they had a conversation with Mr. Gendron whereby they were informed that the Tenant passed away approximately 2 years ago.

5. On or about April 2, 2025, the Landlords submitted an application by mail to the LTB. The application was missing a schedule of parties- therefore, on April 7, 2025, the Board sent the Landlords a letter acknowledging that the Board received a partial application, however, would not be processing the application at that time. That the Landlord may resubmit the application with the completed documents, and it would be processed at that time.
6. Mr. Bower left for some extended travel and so he did not resubmit the application until June 28, 2025, and payment was not made until July 3, 2025. The Landlords request that the Board recognizes the original filing date of the application (April 2, 2025).
7. The Landlords were put on notice that the application was incomplete on April 7, 2025, I understand that Mr. Bower was away for some extended travel, but they could have had someone checking their mail. An application is not complete unless it is accompanied with all the required paperwork and paid for. The Landlords did not pay for the application until July 3, 2025. Therefore, I find that the application was filed as of that date. The Board does not have the authority to alter the deadline to file an application in accordance with the restriction pursuant to section 56 of *Ontario Regulation 516/06*.
8. Subsection 100(2) of the Act says that a landlord must file the application no later than 60 days after the landlord discovers the unauthorized occupancy. Subsection 104(4) of the Act says that a deemed assignment occurs if a landlord does not apply to the Board under section 100 for an order evicting the person within 60 days of the landlord discovering the unauthorized occupancy and neither the landlord nor the tenant apply to the Board under section 101 within 60 days after the end of the subtenancy for an order evicting the subtenant.
9. As the Landlords did not comply with subsection 100 of the Act, there is a deemed assignment of the tenancy in accordance with section 104 of the Act. Therefore, the Unauthorized Occupant is actually now a Tenant. Therefore, the Landlords' application must be dismissed.

It is ordered that:

1. The Landlords' application is dismissed.

January 9, 2026
Date Issued

Curtis Begg
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.