



Order under Section 100 Residential Tenancies Act, 2006

Citation: Xia v Sexton, 2026 ONLTB 11400

Date: 2026-02-06

File Number: LTB-L-038500-25

In the matter of: 2 Upper, 82 Mulcok Ave
Toronto Ontario M6N3C6

Between: Xinde Xia Landlord

And

Richard Sexton Tenant

And

Clara Sexton Unauthorized Occupant

Xinde Xia (the 'Landlord') applied for an order to terminate the tenancy of Richard Sexton (the 'Tenant') and evict Clara Sexton (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 4, 2025.

The Landlord, the Tenant and the Unauthorized Occupant, all 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'), therefore the application must be dismissed.
2. The Tenant admits that they do not live in the rental unit, but that they are still in possession of the unit as they have all of their personal belongings there and their spouse resides in the unit full time and they are jointly responsible for paying the rent. They submit that they will resume full-time occupancy once the Landlord appropriately treats for insects in the rental unit.
3. The Tenant's position is that they have not transferred occupancy because their spouse meets the definition of "Tenant" under Ontario Regulation 516/06 section 3 and on this basis the application must be dismissed.

4. The Landlord's position is that they do not recognize Clara Sexton (CS) as the Tenant's spouse and that they otherwise believe that it is only CS occupying the property and that the Tenant has sublet the rental unit without their consent. Thus, they submit that the Tenant has transferred occupancy of the unit in a manner that is not authorized by the Act because they did not ask the Landlord's permission to sublet the unit.

5. Subsection 3(2) of Ontario Regulation 516/06 states as follows:

(2) If a tenant vacates a rental unit without giving a notice of termination under the Act and without entering into an agreement to terminate the tenancy, and the rental unit is the principal residence of the spouse of that tenant, the spouse is included in the definition of "tenant" in subsection 2 (1) of the Act

6. Based on the evidence before me, I accept the Tenant's evidence regarding their spousal status with CS. I accept that they cohabitated for at least one year and that they have been married for upwards of 10 years. But not for the issue with cockroaches, I accept that they would reside their full-time with their spouse, CS. They also have not relinquished possession of the unit as they still have all of their personal belongings at the rental unit and they continue to pay the rent.

7. Accordingly, I am not satisfied that the Tenant transferred occupancy of the rental unit in a way that is inconsistent with the Act. I accept that CS meets the definition of the Tenant's spouse under subsection 3(2) of the regulations and on this basis the application must be dismissed as the Tenant is still in possession of the rental unit as they also were as of the date the Landlord filed their application on May 5, 2025.

It is ordered that:

1. The Landlord's application is dismissed.

February 6, 2026

Date Issued

Terri van Huisstede

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.