



Order under Section 100 Residential Tenancies Act, 2006

Citation: La Salle Towers Apartments Limited v Hageman, 2026 ONLTB 17007

Date: 2026-02-27

File Number: LTB-L-068509-25

In the matter of: PH 2, 20 North Shore Blvd West
Burlington Ontario L7T1A1

Between: La Salle Towers Apartments Limited Landlord

And

Dirkje (Dorothy) Hageman Tenant

And

Ben Hageman Unauthorized Occupant

La Salle Towers Apartments Limited (the 'Landlord') applied for an order to terminate the tenancy of Dirkje (Dorothy) Hageman (the 'Tenant') and evict Ben Hageman (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 February 19, 2026.

The Landlord's Legal Representative, Martin Zarnett and an articling student, Pavel Shetra attended the hearing.

An agent for the Landlord, Conrad Farr also attended the hearing.

The Tenant is deceased.

As of 9:30 am, the Unauthorized Occupant was not 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 Landlord's evidence.

Amending the Application:

1. The Landlord's Legal Representative requested to amend the application by changing the name of the unauthorized occupant from "unknown occupant" to Ben Hageman.

2. The Landlord's Legal Representative requested to remove the compensation portion of the application and is not requesting a reimbursement of the filing fee.
3. I consented to the requests to amend the application.

Determinations:

4. The Tenant 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'). The Landlord did not enter into a tenancy agreement with this person.
5. The Unauthorized Occupant was in possession of the rental unit on the date the application was filed.
6. The application was filed within 60 days after the Landlord discovered the unauthorized occupant. The Landlord discovered the unauthorized occupant on July 12, 2025, and the application was filed on July 30, 2025.

Landlord's Uncontested Evidence

7. The Landlord's Legal Representative submits that the Tenant is deceased and passed away on June 12, 2025.
8. He states the Landlord purchased the residential complex in 2022 from the family of the corporation, which the Tenant was part of the ownership group of the corporation.
9. He submits that part of the Agreement of Purchase and Sale when the property was sold to the Landlord was that the Tenant would be permitted for the remainder of her life to occupy the rental unit.
10. He provided a clause from the Agreement of Purchase and Sale, that stated the following:
DOC 7082748

From and after the Closing Date, the Purchaser agrees to permit the lease of Penthouse 2 at the 20 North Shore Property to Dirkje Hageman (the "Penthouse Tenant") to continue on its current terms and conditions for the life of the Penthouse Tenant, plus twelve (12) months, provided (i) such lease remains in good standing, and (ii) such lease is subject to annual rent increases as permitted by the Residential Tenancies Act or any other applicable legislation. Such lease may be terminated by the Penthouse Tenant at any time by no less than ninety (90) days' written notice.

11. He believes that Ben Hageman is the Estate Administrator.
12. He testified he sent Ben Hagemann an email on February 18, 2026, reminding him of the hearing on February 19, 2026.

13. He testified that on the morning of the hearing, the unauthorized occupant, Ben Hageman sent an email to him at 7:23 am. This email states his intention to leave the rental unit by April 30, 2026, and keep possession of the storage unit on level B until June 11, 2026. DOC-7399107.
14. He testified Ben Hageman does not reside in the rental unit to the Landlord's knowledge, and that he has a primary place of residence, and he occupies the rental unit for the purpose of storage of his late mothers' possessions.
15. He is requesting an order for the unauthorized occupant to vacate the rental unit or before April 30, 2026, and to provide him until June 11, 2026, to remove all the belongings from the storage room.

Analysis

16. This application is about what happens when a Tenant moves out of a rental unit leaving an occupant behind.
17. The Board needs to know on applications such as this is: when did the Tenant move out; when did the Landlord know the Tenant moved out; was the application filed within 60 days of the Landlord discovering the Tenant had moved out; and did the Landlord enter into a new tenancy agreement with the Unauthorized Occupant?
18. The reason the Board needs to know when the Tenant moved out is because this is the triggering event that turns a legal occupant (which is what a guest or roommate is) into an Unauthorized Occupant. In the language of the Act, by moving out the Tenant "transferred occupancy" to the Occupant which is why he suddenly became an Unauthorized Occupant even though the Landlord knew he was living there. In other words, what the provisions of the Act are intended to deal with is control of the rental unit. Once the Tenant moved out it was the Unauthorized Occupant who was in possession and control of the unit. It is this unauthorized transfer of control that the Act seeks to remedy.
19. Subsection 100(1) says:

If a Tenant transfers the occupancy of a rental unit to a person in a manner other than by an assignment authorized under section 95 or a subletting authorized under section 97, the landlord may apply to the Board for an order terminating the tenancy and evicting the tenant and the person to whom occupancy of the rental unit was transferred.
20. As can be seen from the wording of this provision, not all transfers of control of the unit are improper. Transfers that occur with the Landlord's consent under s. 95 or s. 97 are authorized transfers. The ones section 100 addresses are transfers of control of the unit where the Landlord has not consented.
21. I accept the uncontested evidence of the Landlord that the day the Landlord first discovered there was an Unauthorized Occupant was July 12, 2025, when the Landlord's

became aware the Tenant was deceased, and an unauthorized occupant remained on the rental unit.

22. While I accept that the Agreement of Purchase of Sale between the Landlord and the Tenant stated that the Tenant could continue its current terms and conditions for the life of the Penthouse Tenant, plus twelve (12) months, provided (i) such lease remains in good standing. I find that the Act applies notwithstanding any agreement or waiver to the contrary. I find that the statute overrides private agreements and in this case the tenancy terminated by operation of law under section 91 of the Act.

23. Therefore, I find that the Tenant transferred occupancy of the rental unit to the unauthorized occupant in a manner that was not authorized by the Act. The date that the unauthorized transfer occurred was July 12, 2025, which represents the day after the tenancy was terminated between the Tenant and the Landlord, being thirty days 30 days after the Tenant, Dirkje (Dorothy) Hageman passed away. Section 91 of the RTA reads in part:

91 (1) 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.

24. The Landlord discovered the unauthorized occupant on July 12, 2025, the application was filed with the Board on July 30, 2025. I am satisfied it was filed within the 60-day period after the Landlord discovered the Unauthorized Occupant.

25. The final question here is did the Landlord enter into a tenancy agreement with the Unauthorized Occupant? The reason this is an issue is because of section 104 of the Act which says:

104. (1) If a person occupies a rental unit as a result of an assignment of the unit without the consent of the landlord, the landlord may negotiate a new tenancy agreement with the person.

(2) If a sub Tenant continues to occupy a rental unit after the end of the subtenancy and the Tenant has abandoned the rental unit, the landlord may negotiate a new tenancy agreement with the sub Tenant.

(3) Sections 113 and 114 apply to tenancy agreements entered into under subsection (1) or (2) if they are entered into no later than 60 days after the landlord discovers the unauthorized occupancy.

(4) A person's occupation of a rental unit shall be deemed to be a assignment of the rental unit with the consent of the landlord as of the date the unauthorized occupancy began if,

(a) a tenancy agreement is not entered into under subsection (1) or (2) within the period set out in subsection (3);

- (b) the 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
- (c) neither the landlord nor the Tenant applies to the Board under section 101 within 60 days after the end of the subtenancy for an order evicting the sub Tenant.

26. What this basically means is the Landlord here had several options. It could negotiate a new tenancy agreement with the Unauthorized Occupant. It could file an application to evict him from the unit if it did so within the 60-day limit. And it could do neither, in which case a deemed tenancy arises with the Unauthorized Occupant based on the same terms and conditions as the previous tenancy.
27. I accept the uncontested evidence of the Landlord that the Landlord did not negotiate a new tenancy agreement with the Unauthorized Occupant. I am satisfied that the Landlord filed the application within 60 days of discovering the Unauthorized Occupant.

Section 83

28. 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 April 30, 2026, pursuant to subsection 83(1)(b) of the Act. The Tenant is deceased, and the unauthorized occupant was not at the hearing to make submissions in this regard. The Landlord states that the unauthorized occupant does not reside at the rental unit and has a primary residence and occupies the rental unit for the purpose of storing his late mother's belongings. The unauthorized occupant has requested the termination date of April 30, 2026, and the Landlord states this date is fair in the circumstances.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated as of July 11, 2025, which represents 30 days after the Tenant passed away.
2. The Unauthorized Occupant shall move out of the rental unit on or before April 30, 2026.
3. The Landlord shall not disturb the use of the storage room until after June 11, 2026.
4. If the unit is not vacated by April 30, 2026, then starting May 1, 2026, the Landlord may file this order with the Court Enforcement Office (the Sheriff), so that the eviction may be enforced.
5. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord after May 1, 2026.

February 27, 2026
Date Issued

Trish Carson
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 November 1, 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.