



Order under Section 100 101 Residential Tenancies Act, 2006

File Number: LTB-L-048983-25

In the matter of: 307, 10 Humberline Drive
Toronto ON M9W6J5

Between: Toronto Community Housing Corporation Landlord

And

The Estate of Fadumo Hirsi Tenant

And

Afaf Mohammed Unauthorized Occupant
Unknown Occupant

Toronto Community Housing Corporation (the 'Landlord') applied for an order to terminate the tenancy of the Estate of Fadumo Hirsi (the 'Tenant') and evict (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 January 6, 2026.

The Landlord's representative, John Edlund and/or the Unauthorized Occupant, Afaf Mohammed attended the hearing.

Preliminary Issue:

Is Afaf Mohammed a Tenant?

1. At the outset of the hearing, the Unauthorized Occupant, Afaf Mohammed ('AF') submitted that she is a tenant of the rental unit.
2. The Landlord was opposed to this claim as the only tenant in the lease agreement is Fadumo Hirsi. The Landlord provided a copy of the lease agreement to the Board.
3. It is undisputed that Fadumo Hirsi passed away on May 1, 2025. AF testified that prior to the Tenant's death, she submitted a request form "Adding/Removing a Household Member" to the Landlord seeking to be added to the tenancy agreement. AF acknowledged that this request was not approved or accepted by the Landlord.

4. A tenancy agreement requires the consent of both parties. The mere submission of a request to be added to a lease does not create a tenancy absent acceptance by the landlord. There is no evidence before me that the Landlord agreed to add AF as a tenant, that a new lease was executed, or that the Landlord otherwise consented to creating a tenancy with AF.
5. I therefore find that Fadumo Hirsi remained the sole tenant at the time of her death. As AF was not a party to the tenancy agreement and no agreement was formed between AF and the Landlord, AF is not a tenant within the meaning of the *Residential Tenancies Act*, 2006 (the 'Act').

Determinations:

6. The Landlord's evidence was the Tenant passed away on May 1, 2025. A copy of the Tenant's death certificate was submitted into evidence in support of this statement. The Unauthorized Occupant referred to in this application has been living in the rental unit with the Tenant for some time and is the daughter of the Tenant.
7. The Landlord discovered the Tenant's death on May 6, 2025, as they had received the death certificate.
8. The Landlord provided evidence that a letter was delivered to the Unauthorized Occupant advising that, following the Tenant's death on May 1, 2025, the tenancy would terminate 30 days later, and the unit was to be vacated by May 31, 2025. The letter requested the return of keys, advised that locks would be changed at the end of that day, and stated that any remaining property would be disposed of.
9. The Unauthorized Occupant was in possession of the rental unit on the date the application was filed.
10. The Landlord's representative has advised the Landlord has not received any payments from the Unauthorized Occupant since the death of the Tenant.
11. The Landlord seeks an order evicting the Unauthorized Occupant and compensation pursuant to section 100(3) of the Act, as well as reimbursement of the application filing fee.

Analysis

12. By operation of law, the tenancy between the Landlord and the Tenant terminated on June 1, 2025. Pursuant to section 91(1) of the Act, the tenancy is deemed terminated 30 days after the death of a tenant.
13. Section 91 of the Act provides that where a sole tenant dies and there is no surviving joint tenant, the tenancy terminates 30 days after the date of death. An occupant who was not a tenant does not acquire tenancy rights upon the tenant's death. I find there was no joint tenancy and no agreement creating a new tenancy with the occupant. The occupant therefore has no right to remain in the unit.

14. Section 100 of the Act speaks to the unauthorized transfer of a tenancy and a Landlord's right to evict a tenant and a person to whom occupancy of the rental unit was transferred.
15. Although the Landlord applied for termination of the tenancy as well as per diem compensation, the tenancy terminated automatically thirty days after the Tenant's death pursuant to section 91 of the Act. It raises the question as to whether a tenancy could be transferred to an unauthorized occupant by death, the Divisional Court appears to have accepted such a scenario as a possibility in *Jemiola v. Firchuk*, [2005] O.J. No. 6085.
16. Section 100(2) of the Act requires a Landlord to apply within sixty days of discovering an unauthorized occupancy. Based on Landlord's uncontested evidence that he became aware of the Tenant's death on May 6, 2025, I find that the Landlord applied to the Board within the sixty-day time period.
17. The Landlord is entitled to compensation for the use and occupation of the rental unit by the Unauthorized Occupant pursuant to section 100(3) of the Act, which states:

(3) A landlord who makes an application under subsection (1) may also apply to the Board for an order for the payment of compensation by the unauthorized occupant for the use and occupation of the rental unit, if the unauthorized occupant is in possession of the rental unit at the time the application is made.

Daily Compensation

18. The Landlord is entitled to compensation for the use and occupation of the rental unit by the Unauthorized Occupant.
19. The Unauthorized Occupant owes the Landlord \$14,407.80 in daily compensation for use and occupation of the rental unit for the period from June 1, 2025 to the January 6, 2026.
20. Based on the Monthly rent, the daily compensation is \$65.49. This amount is calculated as follows: \$1992.00 x 12 months, divided by 365 days.
21. 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.
22. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.

Section 83 Considerations

23. I have considered all of the disclosed circumstances in accordance with section 83(2) of the Act and find that it would be unfair to grant relief from eviction pursuant to section 83(1) of the Act. The Unauthorized Occupant has been in the unit since June 1, 2025, which is seven months, and no rent has been paid and the Landlord has sustained a substantial amount of arrears of rent. I would note that the Unauthorized Occupant has had over seven months to find alternative housing. The Unauthorized Occupant will be provided until March 13, 2026 to find new living arrangements and vacate the rental unit.

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 March 13, 2026.
3. If the unit is not vacated by March 13, 2026, then starting March 14, 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 14, 2026.
5. The Unauthorized Occupant shall pay to the Landlord \$14,407.80 which represents daily compensation for the use of the rental unit from June 1, 2025 to the January 6, 2026.
6. The Unauthorized Occupant shall also pay to the Landlord \$65.49 per day for compensation for the use of the unit from January 7, 2026 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 March 13, 2026.
9. If the Unauthorized Occupant does not pay the Landlord the full amount owing by March 13, 2026 they will owe interest. This will be simple interest calculated from March 14, 2026 at 4.00% on the outstanding balance.

March 2, 2026
Date Issued

Joshua Labbe
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 September 14, 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.