



Order under Section 100 Residential Tenancies Act, 2006

Citation: Hersz Properties v Tenebaum, 2026 ONLTB 21480

Date: 2026-03-13

File Number: LTB-L-035999-25

In the matter of: 106, 370 Ridelle Ave
York Ontario M6B4B4

Between: Hersz Properties Landlord

And

Rebecca Tenebaum Tenant

And

Unauthorized Occupants

Jake Mandel
Nitesh Chander
Unknown Occupant(s)

Hersz Properties (the 'Landlord') applied for an order to terminate the tenancy of Rebecca Tenebaum (the 'Tenant') and evict Jake Mandel, Nitesh Chander and Unknown Occupant(s) (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 1, 2025.

The Landlord's legal representative, M. Anderson, the Landlord's agent, E. Occhine, the Unauthorized Occupants, and the Unauthorized Occupants' legal representative, G. Brown, attended the hearing.

Determinations:

1. For the reasons that follow, the Landlord's application is dismissed.
2. The Landlord filed the A2 Application under section 100(1) of the *Residential Tenancies Act, 2006* (the "Act"), which authorizes a landlord to apply to the Board for termination of the tenancy where the tenant has transferred occupancy of the rental unit without the landlord's consent. Section 100(2) of the Act provides that the application must be made no later than 60 days after the landlord discovered the unauthorized occupancy.
3. In the present case, the parties do not appear to dispute that the Tenant transferred the tenancy to the Unauthorized Occupants. However, the key issue before the

Board is whether the Landlord filed the application in time, within the 60-day limitation period pursuant to section 100(2) of the Act. Based on the evidence before the Board, I am satisfied, on a balance of probabilities, that the application was filed outside of the applicable limitation period.

4. There is no dispute that the Tenant was the only intended tenant in the verbal tenancy agreement that commenced in 2007.
5. There is also no dispute that Jake Mandel (JM) is the Tenant's son, and Nitesh Chander (NC) is a friend of JM who also occupies the rental unit.
6. There is no dispute that Meyer Tenebaum (MT) is the registered owner of the residential complex, and no dispute that the MT has always retained management companies to manage the day-to-day operations of the residential complex.
7. MT testified that Briarlane Management managed the residential property in 2022, and that Greenwin Property Management took over sometime in 2023.
8. MT testified that he became the owner of the residential property in 2017 when his father passed away. MT testified that he became aware in March 2025 that the Tenant had vacated the rental unit.
9. MT acknowledged that on December 20, 2022, the Tenant sent an e-mail to Tammy Murry, the site administrator at the time, advising as follows:
 10. MT testified that that he became aware of the e-mail shortly after it was sent by the Tenant in 2022 and that he left it to management to address the issue with the Tenant. MT is unaware if property management did anything to address the issue with the Tenant at that time. MT testified that he did not address the issue with either Greenwin or Hersz, however, he testified that he raised the issue with his asset manager, Josh Vinegar (JV), in

March 2025. MT testified that JV is in charge of hiring the property management companies. JV was not present to provide testimony at the hearing.

11. Whitney Williams (WW), the Landlord's current onsite administrator, has been in the position since November 2024 and is employed by Hersz Properties. WW testified that she did not become aware of the December 20, 2022 e-mail until the previous Friday as she was not employed by the Landlord or the property management company at that time.
12. WW acknowledges that all management companies have a duty to raise change in circumstance issues of a rental unit with the Tenant and bring any concerns to the Landlord.
13. WW testified that she did not become aware of the Tenant vacating the rental unit until March 27, 2025 when JM requested a parking sticker. WW testified that on the same date, she sent an e-mail to her manager advising her of her communication with JM and that according to JM, the Tenant had not been living in the rental unit for many years.
14. WW testified that tenants are provided with resident information forms to fill out on an annual basis to advise the Landlord of any change in circumstances. WW testified that a resident information form for the rental unit was received on May 30, 2024, including both the Unauthorized Occupants and the Tenant as named parties residing in the rental unit.
15. WW testified that when JM requested a parking sticker, he was advised that only the lease holder could make such request. WW further testified that rent increase notices have always been issued under the Tenant's name, and it has never been raised as a concern by the Unauthorized Occupants. As a result of the resident information form, WW was not aware that the Tenant had vacated the rental unit. WW further testified that when she took over the carriage of the property, there was nothing in the Tenant's file to indicate that she had vacated the unit.
16. Elena Occhino (EO), the Landlord's agent, testified that she is a property manager, employed by Greenwin. EO testified that an individual known as "Lita", a former site administrator for Greenwin, who also worked at the residential complex, was let go on November 4, 2024. EO acknowledged that a further site administrator known as Tammy Murray (Tammy) also worked at the residential complex.
17. EO testified that she only became aware of the e-mail dated December 20, 2022, when she reviewed the Unauthorized Occupants evidence. EO testified that they immediately reached out to Tammy to inquire. EO testified that according to Tammy, she was unaware that the Tenant had vacated the rental unit. EO submitted an e-mail from Tammy dated November 28, 2025, stating in part, "I have also included a screenshot confirming that Rebecca Tenenbaum was the sole lease holder. This reflects the state of the file during my time managing the property. Please note that the date shown in the bottom right corner reflects today's date that show's that as we knew she was still living there." EO further relied on a letter dated November 28, 2025, signed by Tammy, further confirming that the Tenant is the lease holder for the rental property. As Tammy Murray was not present to provide testimony or to allow for cross examination, I give little weight to the hearsay evidence submitted by EO with respect to the e-mail and letter written by Tammy.

18. EO further testified that JV was the individual that reached out to Tammy and is unaware if the December 20, 2022 e-mail was shown to Tammy and or discussed with her.
19. EO testified that had she been the property manager in December 2022 and would have received the December 20, 2022 e-mail from the Tenant, it would have been an indication that the Tenant had possibly vacated the unit and would have further investigated with the Tenant and Unauthorized Occupants at that time. However, EO takes the position that Greenwin did not find out the Tenant vacated until March 27, 2025 when the JM told them.
20. At the end of EO's testimony, I advised the parties that Tammy Murray and the individual known as Lita appear to play a key part in the issues of this application and provided the parties with an opportunity to request an adjournment to allow these individuals to be summonsed as witnesses. After a short break, each party returned to the hearing room and advised that they were prepared to proceed without Tammy Murray or Lita.
21. JM testified that he moved into the unit on September 11, 2021. Prior to 2021, the unit had been vacant for several years. JM testified that the Tenant is his mother, and they agreed for him to occupy the unit. JM testified that he contacted Lita for a copy of the unit key and parking spot. JM asserts that Lita was aware the unit had been vacant for a few years prior to him and NC moving in.
22. JM testified that on September 11, 2021, Lita personally provided him with a copy of the keys to the rental unit, access to the buzzer and parking spots. JM asserts that Lita was aware the Tenant was not moving in with them. JM acknowledges that Lita only wanted to give the keys to him and not NC. When JM requested the keys, Lita advised him to attend the office for pickup. Text communications with Lita between September 7, 2021 and September 13, 2021 were submitted into evidence to support JM's testimony. JM testified that Lita also requested information with respect to the vehicles that would use the parking spots and requested the make, model, colour and license plate for each vehicle. JM maintains that Lita was fully aware that only he and NC occupied the rental unit.
23. JM acknowledges that March 27, 2025 was the first time that he advised WW that the Tenant had vacated when he requested parking stickers, but argues that both Tammy and Lita were already aware since 2021. When WW stated that only the lease holder could request the parking spaces, he called his mother to make the request for him. JM acknowledges that a lease agreement between him and the Landlord has not been signed and since his mother was the original lease holder, he did not see an issue with her making the request for the parking stickers.
24. JM testified that he was the one who submitted the resident information form in 2024 and testified that he added his mother because she was the original lease holder. JM testified that although his mother vacated the unit many years prior to 2021, she continued to pay the rent because she did not want to lose the unit. JM and NC commenced to pay the rent since they moved in on September 11, 2021.
25. NC, the second named Unauthorized Occupant, also provided testimony; however, it was of little probative value.

26. The Unauthorized Occupants' representative argues that the Landlord was aware or ought to have been aware that the Tenant had vacated the unit as of September 11, 2021. As such, the application should be dismissed.

Analysis

27. Based on the evidence before the Board and when considered in its totality, I find it untenable that the Landlord only became aware that the tenancy had transferred on March 27, 2025. Instead, I find it more likely than not that the Landlord knew, or ought to have known, that the tenancy transferred on September 11, 2021, or in the alternative on December 20, 2022. I say this for the following reasons.
28. The Landlord testified that he was aware of the Tenant's e-mail dated December 20, 2022, which stated that her son and his friend were residing in the unit. The Landlord testified that he left the matter to management to investigate and to further inquire with the Tenant.
29. JM testified that Lita, the Landlord's administrator at the time, knew the unit was vacant in September 2021 and personally provided him with the keys to the rental unit, access to parking and arranged for buzzer services. While the Landlord's representative argues that Lita was unaware that the Tenant had vacated the unit, Lita was not present to contradict JM's testimony and the text messages submitted by JM, corroborate JM's testimony that Lita requested he attend the office to pick up the keys to the rental unit. As stated in paragraph 20, Although given the opportunity to do so, the Landlord chose not to call Lita as a witness. Additionally, EO acknowledged that the e-mail received from the Tenant on December 20, 2022, would have been sufficient to investigate whether the Tenant had vacated the unit.
30. Section 202 of the Act provides that the Board shall ascertain the real substance of all transactions and activities relating to a residential complex. Based on the evidence before the Board, I find that the Tenant advising the Landlord's management that her son and friend were residing in the unit constitutes acknowledgement that the Tenant was not residing in the unit.
31. Even if I am wrong on this issue, I accept the uncontradicted testimony of JM that Lita was aware the Tenant was not residing in the unit as of September 11, 2021 and that Lita gave him possession of the unit. Additionally, I find that both Lita and Tammy acted as agents for and on behalf of the Landlord.
32. For these reasons, I find the Landlord, on a balance of probabilities, either discovered or ought to have known that the rental unit had been transferred to the occupants on September 11, 2021, when Lita provided JM with possession of the unit, or in the alternative, on December 20, 2022, when both Tammy and the Landlord became aware of the Tenant's e-mail advising that JM and his friend were residing in the rental unit.
33. Since the Landlord has not complied with section 100(2) of the Act having failed to file their application within the 60-day period of discovering the transfer, I find the rental unit is deemed to be an assignment in accordance with section 104(4) of the Act.

It is ordered that:

1. The Landlord's application is dismissed.

March 13, 2026
Date Issued

Mayra Sawicki
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.