



Order under Section 100 Residential Tenancies Act, 2006

Citation: 1312251 Ontario Limited v Robinson, 2026 ONLTB 47988

Date: 2026-06-24

File Number: LTB-L-014576-26

In the matter of: 304, 2900 JANE STREET
TORONTO ON M3N2J7

Between: 1312251 Ontario Limited Landlord

And

Estate of Conrad Lee Robinson Tenants
Randy Dwayne

And

Bernardo Bethel Unauthorized Occupant

1312251 Ontario Limited (the 'Landlord') applied for an order to terminate the tenancy of the estate of Conrad Lee Robinson and Randy Dwayne (the 'Tenants') and evict Bernardo Bethel (the 'Unauthorized Occupant') because the Tenants 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 May 21, 2026.

The Landlord's legal representative, Elizabeth Chea ('EC'), the Landlord's agent, Phil Amar, and the Unauthorized Occupant attended the hearing.

As of 1:53 p.m. the Tenants were 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 and the Unauthorized Occupant's evidence.

Determinations:

Preliminary Issues

1. The Tenants' tenancy of the rental unit commenced on August 1, 2013 (DOC-7930440, pp. 4-10). Randy Dwayne ('RD') moved out of the rental unit long ago, leaving Conrad Lee Robinson ('CR') as the only tenant living in the rental unit.

2. CR passed away on July 11, 2025. The application is amended to remove “Conrad Lee Robinson (Deceased)” as a party, and to replace him with the “Estate of Conrad Lee Robinson”.

Unauthorized Transfer of Occupancy

3. The Unauthorized Occupant, Bernardo Bethel (‘BB’), was living in the rental unit with CR up until July 11, 2025, when CR passed away. RD was not living in the rental unit at the time, and did not occupy the unit after that time.
4. CR’s tenancy terminated by operation of statute on August 10, 2025, 30 days after his death: ss. 91(1), *Residential Tenancies Act, 2006*. BB remained living in the rental unit after CR’s death.
5. An application where a landlord alleges an unlawful transfer of occupancy of the rental unit must be field within 60 days of when the Landlord discovers the unauthorized occupancy: ss. 100(2), *Residential Tenancies Act, 2006*.
6. When a tenant dies, that tenant ceases occupying the rental unit. If an occupant of the rental unit remains in the unit after the tenant’s death, this amounts to an unauthorized transfer of occupancy of the unit, unless there is a lawful sublet or assignment of the unit to the occupant, with the landlord’s consent, a deemed assignment of the unit, or a new tenancy agreement is entered into between the occupant and the landlord: ss. 100(1) § 104, *Residential Tenancies Act, 2006*; *Homestead Land Holdings Limited v. Brown*, 2021 CanLII 89622 (ON LTB), paras 9-11; *Jemiola v. Firchuk*, [2005] OJ No 6085.
7. A person’s occupation of a rental unit is deemed to be an assignment of the unit with the Landlord’s consent as of the date the unauthorized occupancy began if the conditions set out in ss. 104(4) are satisfied. These conditions are that a new tenancy agreement between the landlord and occupant is not entered into, and no application under ss. 100 or 101 of the *Residential Tenancies Act, 2006* (the ‘Act’) is made within 60 days of the landlord discovering the unauthorized occupancy (or within 60 days of the subtenancy ending under s. 101 of the Act in the case of an overholding subtenant): ss. 104(4), *Residential Tenancies Act, 2006*.
8. This application was filed on October 1, 2025 by the Landlord. In the application, the Landlord claims that it discovered BB’s unauthorized occupancy on September 2, 2025. The date that the Landlord discovered the unauthorized occupancy was disputed by BB.
9. Because this is the Landlord’s application, the Landlord bears the burden of proof on a balance of probabilities. To prove something on a balance of probabilities, one must present sufficient clear, convincing, and cogent evidence that it is more likely than not that something happened or a fact is true: *FH v. McDougall*, 2008 SCC 53, paras 44-46.
10. PA’s evidence was that the Landlord discovered the unauthorized occupancy near the beginning of September 2025. He presented as evidence several emails to support this assertion. This included an email from BB to an employee of the landlord dated August 14, 2025 providing “tenant information” (DOC-7930440, p 20). This email belies the position

that the Landlord only discovered the unauthorized occupancy in September 2025. In the email, BB identified the leaseholder as “Conrad Lee Robinson (DECEASED)”, and identified himself and two other individuals as “Occupants”. BB explicitly informed the Landlord in writing on August 14, 2025 that CR had died and that he was still living in the unit with two other occupants. This is consistent with BB’s evidence that he informed the Landlord that CR had died around mid-August 2025.

11. PA said that the Landlord did not take this email at “face value”, and waited for other confirmation from CR’s family that he had died. I do not accept the argument that the Landlord did not “discover” the unauthorized occupancy when BB explicitly informed them about it in writing. While it is reasonable to seek confirmation of this type of information, the Landlord was accurately informed about the unauthorized occupancy by BB on August 14, 2025. I find that this is when the Landlord discovered the unauthorized occupancy, which was confirmed by CR’s family member at a later date.
12. Both PA and BB said that there was discussion between the Landlord and BB about entering a new tenancy agreement. PA said that BB was given the opportunity to make an application for the rental unit. BB’s application was rejected by the Landlord because BB did not have a guarantor.
13. Although BB said he thought he had come to an agreement over the phone with a former employee of the landlord to enter into a new tenancy agreement, no tenancy agreement was ever signed between the parties. Despite there being an application and discussion about entering into a tenancy agreement, BB and the Landlord did not enter into a new tenancy agreement.
14. The Landlord learned of the unauthorized occupancy on August 14, 2025 and not September 2, 2025, but the application was still filed within 60 days of when the Landlord discovered the unauthorized occupancy.
15. It was not disputed that the Landlord did not give consent to the unit being sublet or assigned to BB.
16. PA’s evidence was that BB stayed in the unit without paying rent or compensation for use and occupation to the Landlord until February 25, 2026, when BB vacated the unit and returned the keys. BB has vacated the unit, but the Landlord seeks an order that BB pay the Landlord compensation for use and occupation of the unit for the period September 2, 2025 to February 25, 2026.
17. The monthly rent for the unit at the time that CR died was \$1,243.96. This means the daily compensation rate is \$40.90 [$\$1,243.96 \times 12 \text{ months}$, divided by 365 days]. The Landlord seeks compensation for 176 days [September 2, 2025 to February 25, 2026]. This amounts to \$7,198.40 [$\$40.90 \times 176 \text{ days}$].
18. BB did not dispute that he did not pay rent or compensation for use and occupation to the Landlord for the period after CR died. He said that he attempted to pay rent to the Landlord, but the Landlord refused to accept it and returned the cheques that he provided to the Landlord.

19. BB disputed that he should be required to pay compensation for use and occupation for the entire period claimed by the Landlord, because there was times during this period where the Landlord deactivated his fob preventing him from accessing the unit. This is, in substance, a defence to part of the Landlord's claim for compensation for use and occupation of the unit on the basis that the Landlord deprived BB of use and occupation of the unit during these periods. While the burden of proof remains on the Landlord relative to its application, I find it is appropriate that BB bears an evidentiary burden relative to this defence.
20. BB's evidence was that his fob was deactivated for the first time in September 2025. He said that he asked an employee of the Landlord, Theresa, about why his fob was not working, and he was told that the fob was deactivated and he was not permitted to stay in the unit. BB's possessions remained in the unit, so he asked how he can move his things if he cannot access the unit. He said that the fob was reactivated after about 2.5 weeks.
21. During this time, BB said he lived in his car while his children stayed with a family friend. BB said that the fob was again deactivated for approximately a week in late October or early November 2025, and then again in mid-January 2026. BB said that at this point he decided that he would just move out of the unit, and did not live in the unit after this time. He said the fob was reactivated after he spoke with Theresa again, but that it was a hassle to move and took time.
22. BB acknowledged that his personal property remained in the unit about February 25, 2026, when he returned the keys/fobs to the Landlord.
23. BB's evidence about the fob disconnection was not contradicted by any evidence presented by the Landlord.
24. Although the Landlord did not present evidence contradicting BB's claims about the fob being deactivated, EC did cross-examine BB about this issue. BB's evidence remained consistent on cross-examination. BB did not have supporting documentary or video evidence to support his assertions about the fob deactivations, and explained that he did not document this because he was not thinking about gathering evidence for a legal proceeding.
25. I found BB to be a credible witness, and his evidence was cogent and consistent.
26. I accept that BB's fob was deactivated by the Landlord for a total of 3.5 weeks [24 days] in September and November/December 2025. BB was effectively denied access to the unit during this time, and I agree that he should not be required to pay the Landlord compensation for use and occupation of the unit for the time that the Landlord prevented him from using or occupying the unit.
27. Although BB's personal property remained in the unit during these periods, he was deprived of possession of the unit because he did not have access to, use of, control over, or occupation of the unit: see *Bakker v. 1162994 Ontario Inc.*, 2004 CanLII 59995 (ON CA), para 20.

28. I accept BB's evidence that he did not live in the unit after mid-January 2026, however his personal property remained in the unit, and vacant possession of the unit was not given to the Landlord until February 25, 2026. I also accept that BB's fob was deactivated in mid-January 2026, however, BB did not give cogent evidence relative to how long this deactivation lasted. I cannot therefore determine for what period BB did not have access to, use of, or control over the unit between mid-January 2026 and February 25, 2026.
29. In my view, even if BB decided not to live in the unit after mid-January 2026, he still ought to be required to pay compensation for use and occupation for any period where he had control over the unit, included access to it and use of it. BB did not discharge his evidentiary burden relative to what, if any, amount of time he was actually deprived of control over, access to, or use of, the rental unit for the period of mid-January to February 25, 2026.
30. For these reasons, I find that BB ought be required to pay the Landlord compensation for use and occupation of the unit for 152 days [176 days, less 24 days when BB was deprived of control over, access to, and use/occupation of the rental unit]. The total amount BB must pay the Landlord for use and occupation of the unit is \$6,216.80 [152 x \$40.90].
31. The Landlord paid \$201.00 to file this application, and is also entitled to recover this amount

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated.
2. The Unauthorized Occupant shall pay to the Landlord \$6,216.80 which represents daily compensation for the use of the rental unit from September 2, 2025 to the February 25, 2026, less 24 days.
3. The Unauthorized Occupant shall also pay the Landlord \$201.00 for the cost of filing the application.
4. The Unauthorized Occupant shall pay the Landlord the full amount owing by July 31, 2026.
5. If the Unauthorized Occupant does not pay the Landlord the full amount owing by July 31, 2026 they will owe interest. This will be simple interest calculated from August 1, 2026 at 4.00% on the outstanding balance.

June 24, 2026
Date Issued

Mark Melchers
Member, Landlord and Tenant Board

Toronto ON M7A 2G6

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.