



Order under Section 69 Residential Tenancies Act, 2006

File Number: LTB-L-087083-25

In the matter of: 22, 194 HEIMAN ST
KITCHENER ON N2M3M3

Between: Pier 100 Real Estate GP Ltd. Landlord

And

Nura Kelmendi Tenant

Pier 100 Real Estate GP Ltd. (the 'Landlord') applied for an order to terminate the tenancy and evict Nura Kelmendi (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 12, 2026.

Only the Landlord attended the hearing. The occupant and spouse of the Tenant Merita Meshi also attended the hearing with Tenant Duty Counsel Veronica Munoz.

As of 12:02 p.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. The Tenant received the notice by mail at his last known address as well as by email. The Tenant signed into the portal and consented to emails from the Board prior to the notice of hearing being served. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence and submissions from the interested party and occupant Merita Meshi.

Determinations:

Is the Spouse a Tenant?

1. Prior to the Hearing the Landlord requested the Board determine if Merita Meshi was a tenant, which I find to be necessary to this L1 Application.
2. As spouse and occupant of the rental unit, Ms. Meshi has been living there since the Tenant vacated. However it is unclear when the Tenant vacated. The Landlord provided evidence that on October 27, 2025 they were told by a third party the Tenant was no longer living in the rental unit.
3. Section 3 of *O. Reg. 516/06* (the "Regulations") provides that a spouse is deemed to be included in the definition of "tenant" in subsection 2(1) of the *Residential Tenancies Act*,

2006 the ('Act') if the Tenant vacates the rental unit without giving notice under the Act, and without entering an agreement to terminate with the Landlord.

4. I find this section does not deem Ms. Meshi a tenant, as one or more of the exemptions found in section 3(3) are satisfied based on the information provided to me at the hearing.
5. In this L1 Application regarding Mr. Kelmendi's tenancy, I have no jurisdiction to make any determinations regarding any deemed tenancy between Ms. Meshi and the Landlord and leave that to a future application filed by the Landlord. I make these conclusions inform the parties about their current obligations.
6. However, Ms. Meshi's possession of the rental unit is likely a deemed assignment pursuant to section 104(4) of the Act. Because the Tenant vacated the rental unit sometime before October 27, 2025, and Ms. Meshi was still in possession of the rental unit on the date of this hearing on January 12, 2026, which is more than 60 days after that date, Ms. Meshi's occupation of the rental unit is likely a deemed assignment with the consent of the Landlord if one of the following events did not occur within those 60 days:
 - i. A tenancy agreement was not entered into.
 - ii. The Landlord did not apply to the Board under section 100 for an order evicting Ms. Meshi as soon as they discovered the unauthorized occupancy.
 - iii. Neither the Landlord nor the tenant applied to the Board under section 101 for an order evicting Ms. Meshi.
7. It is not disputed and the evidence before me is that none of the above events occurred, therefore Ms. Meshi's possession is likely a deemed assignment.

Arrears for Mr. Kelmendi

8. The Landlord served the Tenant with an N4 Notice to End Tenancy Early for Non-payment of Rent (N4 Notice) on September 15, 2025. The Landlord filed this application on October 16, 2025.
9. On October 27, 2025 the Landlord was advised by third parties that the Tenant no longer lived in the rental unit, but no other information was provided. The Tenant vacated because of circumstance of domestic violence. The occupant, Merita Meshi, was present but unable to participate due to language constraints.
10. The Landlord takes the position the Tenant was in possession of the rental unit when the L1 application was filed and the Tenant is responsible for arrears to the date of the hearing.
11. The Ontario Court of Appeal found in *1162994 Ontario Inc. Bakker, 2004 Canlii 59995 (ON CA)*, that a tenant is "in possession" of the rental unit where the tenant exercises some form of control over that unit. The Landlord is expected to be able to provide evidence about efforts made to determine whether the tenant is still in possession of the unit. The Landlord in this case failed to do so.

12. Guideline 11 of the LTB Interpretation Guidelines states that:

Where the Tenant moved out of the rental unit after the L1 application was filed, but before the hearing date, the LTB will generally include a determination that the tenancy ended on the date the tenant moved out.

13. The Court of Appeal in Bakker is binding. The Board's Guidelines while not binding on me, are persuasive and I have no reason to deviate from them in this case.

14. I am not satisfied that I have sufficient evidence to determine, firstly if the notice of termination came to the attention of the Tenant, secondly if the Tenant was in possession when the application was filed, and finally the amount of arrears the Tenant owes, and the date the spouse begins to owe rent.

15. In this case section 88.1 of the Act does not apply because the Landlord has given a notice of termination and there was no abandonment. The rental unit is not abandoned as long as occupants who were living in the rental unit while the Tenant was still in possession are still living in the rental unit. I therefore cannot rely on October 27, 2025 as the date the Landlord 'knew or ought to have known' the Tenant vacated.

16. Accordingly, this application is dismissed, with leave to the Landlord to file an L10 application or any other application related to the occupant's deemed assignment pursuant to section 104(4).

It is ordered that:

1. The Landlord's application is dismissed.

January 20, 2026

Date Issued

Julie Broderick

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.