



**Order under Section 100
Residential Tenancies Act, 2006**

File Number: LTB-L-050745-25

In the matter of: 312, 375 Bay Mills Boulevard
Toronto Ontario M1T 2G6

Between: Bay Mills Place Landlord

And

Raymond Porter Tenants
Jessie Porter

And

Jeff Porter Unauthorized Occupant

Bay Mills Place (the 'Landlord') applied for an order to terminate the tenancy of Raymond Porter and Jessie Porter (the 'Tenants') and evict Jeff Porter (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 January 20, 2026.

Only the Landlord's Legal Representative, Matt Anderson, and the Landlord's Agent, Dora Zaharia, attended the hearing.

As of 9:53 a.m., neither the Tenants nor the Unauthorized Occupant was 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.

Determinations:

1. For the reasons that follow, Jeff Porter is an unauthorized occupant and must vacate the rental unit on or before February 8, 2026. The Unauthorized Occupant shall also pay to the Landlord \$201.00 for the application filing fee on or before February 8, 2026.
2. The A2 application was filed on June 18, 2025, and claims that Jeff Porter is an unauthorized occupant under section 100 of the *Residential Tenancies Act, 2006* (the 'Act'), and that the Landlord did not consent to any transfer of tenancy to the Unauthorized Occupant. The application also requests daily compensation for each day the Unauthorized Occupant remains in the rental unit, however from the onset of the hearing

the Landlord's Legal Representative withdrew their compensation claim indicating the Unauthorized Occupant has paid all the rent up to the date of the hearing. Therefore, the compensation claim is withdrawn.

3. The Unauthorized Occupant was in possession of the rental unit on the date the A2 application was filed.
4. The Landlord's Agent testified that during the month of May 2025, she began to notice someone else entering the Tenants unit. Because she was aware of the ages of the Tenants, she searched the obituaries and saw that one of the Tenants, John Porter, was deceased as of February 15, 2025.
5. The Landlord arranged to have a meeting with the Unauthorized Occupant who was entering the Tenants unit, and that meeting occurred on May 13, 2025. At this meeting, it was discovered that the person who is occupying the Tenants residence is the Tenants' son, Jeff Porter. The Unauthorized Occupant confirmed that his mother and father had passed away. The Unauthorized Occupant stated he is the executor of the will, has keys to the rental unit, and has been living there ever since. The Unauthorized Occupant is paying rent, and rent is paid up to the date of the hearing.
6. The Landlord's Agent indicated that at that meeting she told the Unauthorized Occupant he was not a tenant, that he understood that and that he did not want to reside at the rental unit. However, that is not what happened.
7. The Landlord's Agent testified that at the meeting she requested copies of death certificates for his parents and proof that he is the executor of the will, however the Unauthorized Occupant has not provided any further information to the Landlord.
8. A copy of the lease agreement was provided and demonstrated that both the Tenants names are listed as tenants. The Tenants have been tenants since 1995. There are no other tenants listed on this lease agreement.
9. Subsection 100(2) of the Act provides that a landlord is required to file an application to evict a tenant and an unauthorized occupant no later than 60 days after discovering the unauthorized tenancy. In this case, the unauthorized occupancy was confirmed on May 13, 2025 and the application was filed on June 18, 2025. Therefore, the statutory requirements are met under the Act.
10. Pursuant to section 91(1) of the Act, the tenancy of a Tenant terminates 30 days after the death of a tenant. In this case one of the Tenants, Raymond Porter, died on February 15, 2025, but it was only confirmed on May 13, 2025. Therefore, the tenancy terminated 30 days after the Landlord became aware of the death of the Tenants, which is June 13, 2025.
11. Subsection 91(2) of the Act states that a Landlord has to provide "reasonable access to the rental unit" to the executor, or if there is no executor, a member of a tenant's family "for the purpose of removing the tenant's property." That obligation to provide access to the unit lasts for only 30 days after the Tenant's death.

12. Subsection 91(2) of the Act allows for only reasonable access to the unit. It does not provide the executor with the right to live in the unit during the 30-day period after the death or thereafter, even if rent is being paid.
13. This means that should the Unauthorized Occupant be the executor of the will as he stated, or if none existed, a member of the Tenants' family, the Unauthorized Occupant had 30 days after the death of his father to have reasonable access to the rental unit, which means the use of the rental unit would have expired on March 15, 2025.
14. The Landlord's position is that at no time was there ever any transfer of tenancy to the Unauthorized Occupant, and there is no evidence provided at the hearing to the contrary.
15. Therefore, based on the uncontested evidence before me, I found on a balance of probabilities that Jeff Porter is an unauthorized occupant of the rental unit.

Relief from Eviction

16. Section 83 of the Act says that on an application for an order evicting a tenant the Board may refuse to grant the application, unless satisfied "having regard to all the circumstances" what it would be unfair to do so. The Board routinely considers the circumstance of other occupants under s. 83 of the Act. An A2 application for unauthorized occupancy is brought pursuant to s. 100 which says "... 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". Therefore, the Board can consider "all of the circumstances" for relief from eviction from an unauthorized occupant.
17. The Landlord is requesting an immediate eviction order. The Unauthorized Occupant did not attend the hearing to provide evidence of their personal circumstances and the Landlord's Legal Representative was unaware of any specific circumstances of the Unauthorized Occupant that would suggest I ought to delay eviction.
18. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act, and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
19. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.
20. This order contains all of the reasons for the decision within it. No further reasons shall be issued.

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 February 8, 2026.

3. If the unit is not vacated by February 8, 2026, then starting February 9, 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 February 9, 2026.
5. The Unauthorized Occupant shall pay the Landlord \$201.00 for the cost of filing the application.
6. If the Unauthorized Occupant does not pay the Landlord the full amount owing by February 8, 2026, the Unauthorized Occupant will owe interest. This will be simple interest calculated from February 9, 2026 at 4.00% on the outstanding balance.

January 28, 2026
Date Issued

Paula West Oreskovich
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 August 9, 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.