



Order under Section 79 Residential Tenancies Act, 2006

Citation: HORSLEY v WATSON, 2026 ONLTB 12631

Date: 2026-02-10

File Number: LTB-L-084023-25

In the matter of: 15265 THE GORE RD
CALEDON EAST ON L7E0X2

Between: KIRK DOUGLAS ROLPH HORSLEY Landlords
LAURA LYNNE KELSCH

And

LISA WATSON Tenants
CURT ALLARD

KIRK DOUGLAS ROLPH HORSLEY and LAURA LYNNE KELSCH (the 'Landlords') applied for an order to terminate the tenancy and evict LISA WATSON and CURT ALLARD (the 'Tenants') because:

- the Landlords believes that the Tenants abandoned the unit.

This application was heard by videoconference on February 3, 2026 at 9:39 a.m.

Only the Landlord Kirk Horsley and the Landlord's representative Nick Giannantonio attended the hearing.

As of 9:39 a.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's evidence.

When the capitalized word "Landlord" is used in this order, it refers to all persons or companies identified as a Landlord at the top of the order. When the capitalized word "Tenant" is used in this order, it refers to all persons identified as a Tenant at the top of the order.

Determinations:

1. As explained below, the Landlord has not proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the application is dismissed. Below are my reasons.

2. The rental unit is a 3-bedroom, 2,200 square foot single family home.

Landlord's evidence

3. The tenancy began in 2023. Entered into evidence was signed copy of the rental agreement between the Landlord and the Tenants dated October 6, 2023.
4. The Landlord testified the parties entered into an agreement to terminate the tenancy; however, the Tenants did not vacate the unit following the agreed upon date. Entered into evidence was an N11 Notice of termination, signed May 2, 2025 with a termination date of July 1, 2025.
5. The Landlord further testified that as of September 2025, the Tenants had accumulated arrears of \$9,390.00 and as a result the Landlord served the Tenants with an N4 Notice of termination with a termination date of September 23, 2025. A copy of the valid, signed N4 Notice was entered into evidence to support the Landlord's testimony. As of the date of the hearing, the arrears are \$23,390.00.
6. The Tenants moved out of the unit on or about September 20, 2025. Entered into evidence was a text message correspondence between the Landlord and the Tenant Lisa Watson who writes to the Landlord on September 20, 2025 the Tenants are in the process of moving out of the unit.
7. The Landlord further testified that the Landlord's agent recovered the keys shortly after the Tenants moved out of the rental unit, and the Landlord currently has possession of the unit. Moreover, the Landlord has made several attempts to reach out to the Tenants but as of the date of the hearing, have not received any response. Entered into evidence was correspondence from the Landlord to Ms. Watson dated January 8, 2026 showing no response.
8. The Landlord submitted the Landlord has since entered into the Purchase and Sale agreement with a third party.
9. The Landlord submits that the Tenants abandoned the rental unit.

Analysis

10. The question before me is whether the Tenants abandoned the rental unit pursuant to the Residential *Tenancies Act, 2006* ('the Act').
11. The Board's Interpretation Guideline 4 entitled Abandonment of a Rental Unit explains the concept of abandonment, as follows:

Abandonment is a unilateral act by the tenant to relinquish their tenancy and give up possession of the rental unit without properly giving notice of the termination to the landlord. If the landlord is not sure whether or not a rental unit has been abandoned, they may file an application for determination of this issue with the Board.

Section 2(3) of *the Act* provides that a rental unit is not considered abandoned where the tenant is not in arrears of rent. Even if there is evidence of abandonment,

such as the furniture being removed, the landlord cannot treat the unit as abandoned before the end of the rental period if the rent is fully paid.

12. It is undisputed the Tenants are in arrears.
13. Here, at the time the Tenants vacated the unit, a valid N4 Notice of termination was in effect, served on September 4, 2025, with a termination date of September 23, 2025. The Landlord testified that the Tenants vacated the unit on or about September 20, 2025, prior to the termination date set out in that notice, and returned possession and keys to the Landlord, collected shortly thereafter by the Landlord's agent.
14. Vacating a rental unit 3 days prior to the termination date specified in a Notice of termination is consistent with vacating pursuant to that notice, not abandonment. Abandonment contemplates a tenant leaving without notice or explanation and without an identifiable intention to terminate the tenancy through a lawful mechanism. In this case, the Landlord had expressly communicated a termination date, and the Tenants' conduct aligned with the N4 Notice.
15. The Landlord's reliance on a previously signed N11 agreement to end the tenancy does not alter this analysis. While an N11 was signed with a termination date of July 1, 2025, the Landlord's own testimony confirmed the Landlord did not apply to the Board within the statutory 30-day period. As a result, the N11 became unenforceable, and the tenancy continued. The legal significance of the N11 ended well before the Tenants vacated the rental unit in September 2025.
16. In these circumstances, the Tenants did not abandon the unit. They vacated the unit in response to a notice of termination served by the Landlord. I find the Landlord's application seeks to retroactively characterize a lawful move-out as abandonment in order to obtain a termination order after other statutory termination routes were not pursued.
17. The Landlord's concern about future liability or certainty in the context of an agreement of purchase and sale does not transform the facts into abandonment. The Board's role is to determine whether the tenancy ended in accordance with *the Act* not to cure commercial risk arising from another private transaction.
18. *The Act* provides clear and specific mechanisms for terminating a tenancy. The Board cannot retroactively recharacterize the Tenants' lawful move-out to address risks associated with a subsequent agreement of purchase and sale. Instead, a finding of abandonment must be grounded in the Tenant's conduct and intention, not in the Landlord's downstream commercial objectives.
19. Here, it is clear that the evidence shows the Tenants vacated pursuant to an N4 Notice of termination and returned possession of the unit. There is no evidence of abandonment and no uncertainty as to possession. Frankly, the Landlord's desire for certainty in a real estate transaction does not supply a legal basis for an abandonment finding or a termination order.
20. Accordingly, the landlord's application is dismissed.

It is ordered that:

1. The Landlord's L2 application is dismissed.

February 10, 2026

Date Issued

Greg Witt

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.