



Order under Section 100 Residential Tenancies Act, 2006

Citation: Arambalis v Muller, 2026 ONLTB 16982

Date: 2026-02-23

File Number: LTB-L-084542-25

In the matter of: 5 Meaford Avenue
Toronto Ontario M8V2H6

Between: Bessie Arambalis Landlord

And

The Estate of Mark Muller Tenant

And

Ryan Unknown Occupant(s) Unauthorized Occupant

Bessie Arambalis (the 'Landlord') applied for an order to terminate the tenancy of the Estate of Mark Muller (the 'Tenant') and evict Ryan Unknown Occupant (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 February 19, 2026.

The Landlord's Legal Representative, Alistair Trent and the Landlord attended the hearing.

As of 2:01 pm the Unauthorized Occupant was 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.

Preliminary Issue:

1. The Landlord's application requested compensation by the Unauthorized Occupant for the use of the rental unit.
2. At the hearing, I explained to the Landlord's Legal Representative that the request for compensation against the unauthorized occupant would be an unenforceable order as the Landlord does not have the full name of the unauthorized occupant.
3. The Landlord's Legal Representative requested to amend the application to remove the daily compensation portion of the application.

Amending the Application:

4. The application is amended to remove the Tenant, Norman Salvail and David Atkins.
5. The application is amended to change the name of the Tenant from Mark Muller to The Estate of Mark Muller.
6. The application is amended to remove the request for daily compensation.

Determinations:

7. The Tenant transferred the occupancy of the rental unit to the Unauthorized Occupant in a manner that was not authorized by the *Residential Tenancies Act, 2006* (the 'Act'). The Landlord did not enter into a tenancy agreement with this person.
8. The Unauthorized Occupant was in possession of the rental unit on the date the application was filed.
9. The application was filed within 60 days after the Landlord discovered the unauthorized occupant. The Landlord discovered the unauthorized occupant on September 29, 2025, and the application was filed on October 2, 2025.

Landlord's Uncontested Evidence

10. The Landlord testified the original lease was signed with three Tenants being Norman Salvail, David Atkins and Mark Muller
11. She testified the Tenant; Norman Salvail became deceased 3-4 years ago.
12. She testified approximately three years ago the Tenant, David Atkins asked to be removed from the lease and the Tenant, Mark Muller agreed to be the only Tenant on record.
13. The Landlord testified on September 29, 2025, the Landlord's son attended the rental unit as the Tenant had indicated to the Landlord that he was planning on vacating near the end of October 2025. Her son attended the rental unit to have a conversation with him regarding his intention on vacating the rental unit.
14. She testified that a person by the name of Ryan answered the door and advised her son that the Tenant had passed away but did not know the date of his passing.
15. The Landlord testified that Ryan is not a family relative to the Tenant and he had told her son that he was renting a room from the Tenant.
16. The Landlord testified that on October 25, 2025, she received a text message from the Tenant's sister to advise her that the Tenant had passed away on September 20, 2025.
17. She testified the Landlord has not entered into an agreement with the unauthorized occupant.

Analysis

18. This application is about what happens when a Tenant moves out of a rental unit leaving an occupant behind.
19. The Board needs to know on applications such as this is: when did the Tenant move out; when did the Landlord know the Tenant moved out; was the application filed within 60 days of the Landlord discovering the Tenant had moved out; and did the Landlord enter into a new tenancy agreement with the Unauthorized Occupant?
20. The reason the Board needs to know when the Tenant moved out is because this is the triggering event that turns a legal occupant (which is what a guest or roommate is) into an Unauthorized Occupant. In the language of the Act, by moving out the Tenant “transferred occupancy” to the Occupant which is why he suddenly became an Unauthorized Occupant even though the Landlord knew he was living there. In other words, what the provisions of the Act are intended to deal with is control of the rental unit. Once the Tenant moved out it was the Unauthorized Occupant who was in possession and control of the unit. It is this unauthorized transfer of control that the Act seeks to remedy.
21. Subsection 100(1) says:

If a Tenant transfers the occupancy of a rental unit to a person in a manner other than by an assignment authorized under section 95 or a subletting authorized under section 97, 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.
22. As can be seen from the wording of this provision, not all transfers of control of the unit are improper. Transfers that occur with the Landlord’s consent under s. 95 or s. 97 are authorized transfers. The ones section 100 addresses are transfers of control of the unit where the Landlord has not consented.
23. I accept the uncontested evidence of the Landlord that the day the Landlord first discovered there was an Unauthorized Occupant was September 29, 2025, when the Landlord’s son visited the rental unit to speak with the Tenant and became aware that he was deceased and unauthorized occupant remained in the rental unit.
24. Therefore, I find that the Tenant transferred occupancy of the rental unit to the unauthorized occupant in a manner that was not authorized by the Act. The date that the unauthorized transfer occurred was October 20, 2025, which represents the day after the tenancy was terminated between the Tenant and the Landlord, being thirty days 30 days after the Tenant, Mark Muller passed away. Section 91 of the RTA reads in part:

91 (1) If a tenant of a rental unit dies and there are no other tenants of the rental unit, the tenancy shall be deemed to be terminated 30 days after the death of the tenant.

25. The Landlord discovered the unauthorized occupant on September 29, 2025, the application was filed with the Board on October 2, 2025. I am satisfied it was filed within the 60-day period after the Landlord discovered the Unauthorized Occupant.
26. The final question here is did the Landlord enter into a tenancy agreement with the Unauthorized Occupant? The reason this is an issue is because of section 104 of the Act which says:
104. (1) If a person occupies a rental unit as a result of an assignment of the unit without the consent of the landlord, the landlord may negotiate a new tenancy agreement with the person.
- (2) If a sub Tenant continues to occupy a rental unit after the end of the subtenancy and the Tenant has abandoned the rental unit, the landlord may negotiate a new tenancy agreement with the sub Tenant.
- (3) Sections 113 and 114 apply to tenancy agreements entered into under subsection (1) or (2) if they are entered into no later than 60 days after the landlord discovers the unauthorized occupancy.
- (4) A person's occupation of a rental unit shall be deemed to be a assignment of the rental unit with the consent of the landlord as of the date the unauthorized occupancy began if,
- (a) a tenancy agreement is not entered into under subsection (1) or (2) within the period set out in subsection (3);
- (b) the landlord does not apply to the Board under section 100 for an order evicting the person within 60 days of the landlord discovering the unauthorized occupancy; and
- (c) neither the landlord nor the Tenant applies to the Board under section 101 within 60 days after the end of the subtenancy for an order evicting the sub Tenant.
27. What this basically means is the Landlord here had several options. It could negotiate a new tenancy agreement with the Unauthorized Occupant. It could file an application to evict him from the unit if it did so within the 60-day limit. And it could do neither, in which case a deemed tenancy arises with the Unauthorized Occupant based on the same terms and conditions as the previous tenancy.
28. I accept the uncontested evidence of the Landlord that the Landlord did not negotiate a new tenancy agreement with the Unauthorized Occupant. I am satisfied that the Landlord filed the application within 60 days of discovering the Unauthorized Occupant.
29. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.

Section 83

30. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. The Tenant is deceased, and the unauthorized occupant was not at the hearing to make submissions in this regard.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated as of October 20, 2025, which represents 30 days after the Tenant, Mark Muller passed away.
2. The Unauthorized Occupant shall move out of the rental unit on or before March 6, 2026.
3. If the unit is not vacated by March 6, 2026, then starting March 7, 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 March 7, 2026.
5. The Unauthorized Occupant shall pay the Landlord \$201.00 for the cost of filing the application.
6. The Unauthorized Occupant shall pay the Landlord the full amount owing by March 6, 2026.
7. If the Unauthorized Occupant does not pay the Landlord the full amount owing by March 6, 2026 they will owe interest. This will be simple interest calculated from March 7, 2026 at 4.00% on the outstanding balance.

February 23, 2026
Date Issued

Trish Carson
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 September 7, 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.