



Order under Section 100 Residential Tenancies Act, 2006

File Number: LTB-L-077791-25

In the matter of: 307, 1137 Royal York Road
TORONTO Ontario M9A 4A7

Between: Royal York Gardens C/O Princess Management Landlord

And

Mohsen Lotfi Tenant

And

Nafiseh Kamaree
Unauthorized Occupant(s) Unauthorized Occupant

Royal York Gardens C/O Princess Management (the 'Landlord') applied for an order to terminate the tenancy of Mohsen Lotfi (the 'Tenant') and evict Nafiseh Kamaree and Unauthorized Occupant(s) (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 March 5, 2026.

The Landlord's property manger, Estella Delaberuz, the Landlord's Legal Representative, Eric Steiman, the Tenant and the current Occupant, Nafiseh Kamaree, attended the hearing.

Denied Adjournment request:

At the outset of the hearing, Nafiseh Kamaree (NK) requested an adjournment on the basis that her son had an urgent dental appointment at 10:00 a.m. and that she would not be able to remain at the hearing. NK did not provide the Board with a satisfactory explanation as to why this issue could not have been raised earlier or why the hearing could not have been rescheduled before the hearing date. In the circumstances, any further delay would have prejudiced both the Landlord and the Tenant. For these reasons, the request for an adjournment was denied.

In order to accommodate NK's son's dental appointment, the matter was stood down until 1:00 p.m. This provided NK with additional time to take her child to the appointment and return to the hearing. At 1:00 p.m., the parties returned to the hearing room and the matter proceeded on its merits.

Determinations:

Unauthorized Occupation

1. The Landlord filed this A2 application seeking termination of the tenancy and eviction of NK on the basis that the Tenant transferred occupancy of the rental unit to NK without the Landlord's consent.
2. The issue before the Board is whether the Tenant transferred occupancy of the rental unit without the Landlord's consent and whether NK meets the definition of tenant under section 3 of Ontario Regulation 516/06.
3. The evidence before the Board was that the Tenant signed the lease agreement in July 2021. The Tenant is the sole tenant named on the lease. NK and the parties' two children, RL and AL, were listed as occupants of the rental unit.
4. The Landlord's evidence was that, on September 8, 2025, the Landlord learned that the Tenant was no longer living in the rental unit. The Landlord received an email from the Tenant dated September 8, 2025, in which the Tenant advised that he had not resided in the unit since February 2025, that he had separated from NK, and that NK and the two children remained in the unit.
5. The Landlord's evidence was also that the Landlord did not consent to termination of the tenancy, as confirmed in an email dated September 11, 2025. The Landlord further testified that the Tenant did not ask the Landlord to assign the tenancy to NK before moving out in February 2025.
6. The Tenant testified that he moved out of the rental unit in February 2025 after separating from NK. He stated that the rental unit was the family's matrimonial home and that NK and the two children continued to reside there because it remained their principal residence. The Tenant further testified that, when he emailed the Landlord on September 8, 2025, the Landlord did not consent to termination of the tenancy.
7. NK also testified that she did not sign any agreement with the Landlord after the Tenant moved out. She further testified that she attempted to speak to the Landlord about having her name added to the lease after the Tenant moved out, but the Landlord refused to communicate with her.
8. NK testified that she moved into the rental unit in August 2021. She and the Tenant have twin children, RL and AL, who are seven years old. She testified that she lived in the rental unit with the Tenant and the children until the Tenant moved out in February 2025, and that she and the children have continued to reside there as their principal residence since that time.
9. Subsection 100(1) of the Act states: "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.”

10. Subsection 100(2) states: “An application under subsection (1) must be made no later than 60 days after the landlord discovers the unauthorized occupancy.
11. Since the Landlord was informed by the Tenant on September 8, 2025, that he had moved out of the rental unit, and the application was filed on September 15, 2025, I am satisfied that the application was filed within 60 days after the Landlord discovered the alleged unauthorized occupancy, as required by subsection 100(2) of the Act.
12. However, I am not satisfied that NK is an unauthorized occupant. I find that NK meets the definition of tenant under section 3 of Ontario Regulation 516/06.
13. Section 3 Definition of “tenant” states, in part, as follows:

(1) If a tenant of a rental unit dies and the rental unit is the principal residence of the spouse of that tenant, the spouse is included in the definition of “tenant” in subsection 2 (1) of the Act unless the spouse vacates the unit within the 30-day period described in subsection 91 (1) of the Act.

(2) If a tenant vacates a rental unit without giving a notice of termination under the Act and without entering into an agreement to terminate the tenancy, and the rental unit is the principal residence of the spouse of that tenant, the spouse is included in the definition of “tenant” in subsection 2 (1) of the Act.

14. Section 2 of the Act defines “spouse: to mean a person:

(a) to whom the person is married, or
(b) with whom the person is living in a conjugal relationship outside marriage, if the two persons,
(i) have cohabited for at least one year,
*(ii) **are together the parents of a child,***
.....

15. Based on the evidence before me, I find that, when the Tenant moved out of the rental unit in February 2025, he did so without giving a notice of termination under the Act and without entering into an agreement to terminate the tenancy. I also find that NK falls within the definition of spouse in section 2 of the Act. The evidence was that NK and the Tenant were married and have two children together. The Landlord also acknowledged that NK was the Tenant’s spouse and had been living in the rental unit with the Tenant and the children.
16. I therefore find that NK meets the definition of tenant under subsection 3(2) of the Regulation. When the Tenant moved out of the rental unit in February 2025, the rental unit remained the principal residence of the Tenant’s spouse. As a result, NK became a tenant and assumed the rights and obligations of a tenant under the Act as of that date.

17. Accordingly, NK is a tenant and not an unauthorized occupant. The Landlord's application is therefore dismissed.

It is ordered that:

1. The Landlord's A2 application is dismissed.

March 16, 2026

Date Issued

Joy Xiao

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.