



Order under Section 100 Residential Tenancies Act, 2006

Citation: Columbus Estates of Chatham Inc v Eberts, 2026 ONLTB 22235

Date: 2026-03-13

File Number: LTB-L-078659-25

In the matter of: 1104, 340 PARK AVE W
CHATHAM ON N7M6G1

Between: Columbus Estates of Chatham Inc Landlord

And

Samantha Eberts Tenant

And

Unauthorized Occupants

Unknown Occupant
Unknown Occupant
Unknown Occupant
Unknown Occupant

Columbus Estates of Chatham Inc (the 'Landlord') applied for an order to terminate the tenancy of Samantha Eberts (the 'Tenant') and evict the Unknown Occupants because the Tenant transferred occupancy of the rental unit to the Unauthorized Occupants 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 26, 2026.

The Landlord's agent, Crystal Ryan, the Landlord's witness, Matthew McNeil, the Tenant and the Tenant's support (fiancé), Brendan Daponte, attended the hearing.

Determinations:

Preliminary Issue

Late disclosure of Tenant's evidence

1. During the hearing, it was raised that the Tenant had filed documents two days before the hearing as well as the day of the hearing. Those documents were not served on the Landlord. Given the prejudice to the Landlord, I exercised my discretion to refuse any documentation that was not filed in accordance with the Board's Rule 19 which states:

19.1 Unless the LTB has directed or ordered otherwise, all parties to a matter that has been scheduled for a CMH or a hearing must provide the other parties and the LTB with a copy of all documents, pictures and other evidence that the party intends to rely upon at least 7 days before the CMH or hearing. The evidence must be provided to the other parties using one of the methods of service identified in the RTA or Rule 3.

19.2 Where a party has provided evidence in accordance with Rule 19.1, the other parties must provide any responding documents, pictures and other evidence that the party intends to rely upon to the other parties and the LTB at least 5 days before the scheduled CMH or hearing.

19.7 A party who fails to comply with Rule 19 or an order or direction for disclosure may not rely on the evidence that was not disclosed as directed or ordered, unless otherwise ordered.

The Application

2. For the reasons below, I find that the Tenant did not transfer the occupancy of the rental unit to the Unauthorized Occupants in a manner that was not authorized by the Residential Tenancies Act, 2006 (the 'Act').
3. On September 12, 2025, the Landlord filed the A2 Application with the Board stating that the Tenant had transferred the tenancy to another person without the Landlord's consent and requesting that the Board terminate the tenancy and evict the unauthorized occupants.
4. An A2 application is founded on section 100 of the Act, which states:

(1) 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. [Emphasis added]

5. In the present case, the Landlord's evidence was that after investigating a neighbouring tenant complaints about the state of the Tenant's patio (i.e. garbage, rodents), the Landlord discovered that there were unidentified people living in the unit. The neighbouring tenant told the Landlord that one of the unidentified people told him they had moved in. Given that this is an RGI unit, the Landlord sent a letter to the Tenant dated September 4, 2025 [Doc 7403326, page 4] which reads, in part:

It has been reported and we have reason to believe that you have several unauthorized people residing in your unit with you. It has been reported that your brother, his girlfriend and her mother are residing with you in unit 1104, 340 Park Avenue West, Chatham, ON, N7M 6G1. As you know it is your responsibility to report to our office any change in your household income or composition per O.Reg. 298/01, 10, and your signed Tenancy Lease Agreement Sec 5 (5.01). If

you are allowing other people to reside with you without authorization you could possibly cease to qualify for subsidy at Columbus Estates of Chatham Inc.

6. After the Tenant did not respond, the Landlord sent a follow up letter to the Tenant dated September 12, 2025 [Doc 7403326, page 6] asking the Tenant to make an appointment with the property manager. There was no response from the Tenant until the Landlord received a letter dated November 6, 2025 requesting maintenance. The Landlord inspected the unit on November 7, 2025 and confirmed that there were other people living in the unit. The Landlord produced photographs [Doc 7403326, pages 10-19] confirming an extra mattress placed in the Tenant's son's room, other people's mail and a bed set up in the basement.
7. The Landlord's witness, Matthew McNeil, lives next door to the Tenant and testified that he has not seen the Tenant in approximately six months. He knew there were other people living in the unit and one of them, Georgina Blyde, told him she had moved in.
8. The Tenant denied that she had transferred occupancy of the unit to unauthorized occupants. She testified that when her sister had an accident in February 2025, left the unit temporarily to assist in her recovery. She went back to the unit twice a month for clothes and personal items. She gave a key to the unit to a friend so that they could look after her cat and check her mail. She had no idea those friends had moved into the unit. She denied that anyone was living in the basement, claiming that the bedroom was "staged" as part of her work.
9. Based on the evidence before me, I am satisfied that there has been no transfer of the tenancy to the unauthorized occupants. The Landlord's agent did not challenge the Tenant's testimony that the unauthorized occupants were no longer living in the unit. The Tenant has not relinquished control of the rental unit to the unauthorized occupants and, as of the date of the hearing, still lives in the rental unit.
10. As there has not been a transfer of occupancy, and the unauthorized occupants are not living in the unit, the Landlord's application must be dismissed.

It is ordered that:

1. The Landlord's application is dismissed.

March 13, 2026
Date Issued

Karen Gonçalves
Member, Landlord and Tenant Board

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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.