



Order under Section 79 Residential Tenancies Act, 2006

Citation: Spiro v Magee, 2026 ONLTB 25155

Date: 2026-03-24

File Number: LTB-L-076194-25

In the matter of: 2-Upper, 356 DUPONT ST
TORONTO ON M5R1V9

Between: Jacob Spiro Landlord

And

Ryan Magee Tenants
Jennifer Neill

Jacob Spiro (the 'Landlord') applied for an order to terminate the tenancy and evict Ryan Magee and Jennifer Neill (the 'Tenants') because the Landlord believes that the Tenants abandoned the unit.

This application was heard by videoconference on March 3, 2026.

The Landlord, the Tenants' Representative, Marvin Dillon, and the Tenant, Jennifer Neill, attended the hearing.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy.
2. It was undisputed that the Tenants had vacated the rental unit. The issue was as of what day the tenancy terminated
3. It was the Landlord's position that the Tenants did not vacate the rental unit until October 31, 2025.
4. The Tenants maintained that they vacated the rental unit as of September 1, 2025.
5. The Landlord testified that there was an N4 notice of termination provided to the Tenants in August 2025 and the Landlord provided a notice of entry September 3, 2025. When the Landlord entered the rental unit on September 5, 2025, he noticed that the furniture was removed, there were no beds, no couches, and the rental unit looked totally abandoned.

6. The Landlord testified that he then sent an email to the Tenants on September 10, 2025, asking if they had moved out of the rental unit. The Landlord testified that on September 5, 2025, the lock to the rental unit was changed and the new key was left in the mailbox. The Landlord also testified that the original keys were returned to his paralegal on September 24, 2025. The Landlord provided an email dated September 24, 2025, indicating that the Tenants vacated prior to September 10, 2025.
7. The Tenant, Jennifer Neill ("JN"), testified that the Tenants vacated on August 31, 2025, and did a once over of the rental unit on September 1, 2025. JN testified that they left a piano and maybe a dumbbell in a closet but other than that everything else was taken. JN testified that the Tenants had notified the Landlord in May that they wanted to end the tenancy with no answer. JN testified that at a Board hearing for a previous N4 notice the Tenants told the Landlord they were vacating as of September 1, 2025, but they did not reach out once they actually vacated.
8. *1162994 Ontario Inc. v. Bakker*, 2004 CanLII 59995 (ONCA) is the leading Court of Appeal decision on what it means to be in possession. In that case, the Court discusses whether there is a "sufficient connection between the rental unit and the tenant" to determine if the tenant is in possession of the rental unit.
9. Here, I am satisfied that as of September 1, 2025, the Tenants no longer had sufficient connection to the rental unit. The Landlord changed the locks on September 5, 2025 and did not provide the Tenants the new keys. While the keys were left in the mailbox, there is no evidence the Tenants got the new keys. Furthermore, there was no personal property other than a piano left in the rental unit as of September 5, 2025.
10. Therefore, the Tenants no longer had possession of the rental unit as of September 1, 2025, and the tenancy terminated as of September 1, 2025.
11. The Landlord was not seeking an order for arrears as there was another application pending regarding that matter.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated, as of September 1, 2025.

March 24, 2026
Date Issued

Nicole Pedron
Member, Landlord and Tenant Board

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