



**Order under Section 87
Residential Tenancies Act, 2006**

File Number: LTB-L-074637-25

In the matter of: 607, 740 EGLINTON AVE W
TORONTO ON M5N1C4

Between: Volodymyr Orlenko Landlord

And

Sofia Marin-Osorno Former Tenant

Volodymyr Orlenko (the 'Landlord') applied for an order requiring Sofia Marin-Osorno (the 'Former Tenant') to pay the rent and daily compensation that the Former Tenant owes.

This application was heard by videoconference on March 5, 2026.

Only the Landlord attended the hearing.

As of 9:54am, the Former Tenant was not present or represented at the hearing although properly served with notice of this hearing by the Landlord. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

1. As explained below, the Board does not have jurisdiction to issue an order and therefore the application is dismissed.
2. The Landlord stated that he and the Tenant entered into a tenancy agreement to commence on August 6, 2025 for a fixed term of one year ending on August 5, 2026.
3. The Landlord stated the Tenant did not attend the rental unit to obtain keys to the rental unit and never took possession of the rental unit.

Analysis

4. On the date this application was filed, subsection 87(1)(b) of the Act permitted a landlord to apply for an order for the payment of arrears of rent if the tenant is in possession of the rental unit. The effect of this section is that if the tenant is not in possession of the rental unit on the date the application is filed, the Board does not have jurisdiction to issue an order requiring the tenant to pay the arrears of rent. This is consistent with the decision of

the Ontario Court of Appeal in *1162994 Ontario Inc. v. Bakker et al.* (2004 CanLII 59995 (ON CA)), based on the previous, but identical legislation.

5. The Court found that in order for a tenant to be in possession for the purposes of subsection 87(1) of the Act there must be a sufficient connection between the tenant and the rental unit. It stated that: “...*possession of a rental unit refers to some form of control over that unit as demonstrated by factors such as access to, use of, or occupation of the rental unit.*”
6. The Landlord stated the Tenant was never in possession of the keys, and therefore by extension did not have access, control or occupation of the rental unit at the time the Landlord filed the application with the Board.
7. As such in accordance with the findings in *1162994 Ontario Inc. v. Bakker et al* the Board has no jurisdiction to issue the order requested by the Landlord.
8. With the totality of the uncontested evidence and submissions before me and on a balance of probabilities I find the Tenant was not in possession of the rental unit at the time the Landlord filed the application with the Board and therefore the application must be dismissed.

It is ordered that:

1. The Landlord’s application is dismissed.

April 2, 2026
Date Issued

Greg Brocanier
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.