



## **Order under Section 79 Residential Tenancies Act, 2006**

**Citation:** *Neighbours Community Homes v Oliver*, 2026 ONLTB 36050

**Date:** 2026-05-11

**File Number:** LTB-L-011461-26

**In the matter of:** 11.5, 153 BORDEN ST  
TORONTO ON M5S 2N4

**Between:** Neighbours Community Homes Landlord

**and**

Bryan Oliver Tenant

Neighbours Community Homes (the 'Landlord') applied for an order to terminate the tenancy and evict Bryan Oliver (the 'Tenant') because the Landlord believes that the Tenant abandoned the unit.

This application was heard by videoconference on April 29, 2026.

Only the Landlord's agents, Kimberley Ellsworth, Marsha Ferguson, and Carver Lewis attended the hearing.

As of 11:07 a.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the Board. 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 Landlord has proven on a balance of probabilities the grounds for termination of the tenancy in the application. Therefore, the application is granted.

#### *Evidence and Submissions*

2. The Tenant moved into the rental property on or about November 18, 2022.
3. The Landlord's agent, Carver Lewis, testified that he works at the residential complex and has direct knowledge of the facts set out on this application.
4. The Tenant stopped paying the rent as of July 2025. The Landlord's records show that no monthly rent payments of \$582.00 were received for several consecutive months, and the arrears have accumulated to the date of the hearing. The Tenant had not been seen at the

residential complex for a significant period of time. The Landlord's last contact with the Tenant occurred on June 3, 2025, when a housing support worker spoke to Mr. Lewis regarding pest treatment. After that date, the Landlord's staff and other tenants had no contact with the Tenant.

5. The Landlord has made repeated attempts to contact the Tenant, by telephone, email and by attending the rental unit in person. Mr. Lewis testified that on October 16, 2025, he inspected the rental unit and observed the unit unoccupied, most of the Tenant's personal belongings, including his electric bicycle were gone. Mr. Lewis observed garbage in the unit. Mail was piling up outside the door. The remaining furniture (bed and dresser) belongs to the Landlord because it was provided to the Tenant at the commencement of the tenancy.
6. The Landlord contacted professionals and support workers listed for the Tenant in their case management system, and those individuals advised that they have not had contact with the Tenant for many months. The Landlord also filed a missing person report with the Toronto Police Services on December 5, 2025.

#### *Analysis and Findings*

7. This application was filed with the Board on February 6, 2026. The application asks that the Board determine whether the Tenant has abandoned the rental unit and issue an order terminating the tenancy on that basis.
8. As explained in the Board's Interpretation Guideline 4, "an abandonment is a unilateral act by the tenant to relinquish their tenancy and give up possession of the rental unit without properly giving notice of the termination to the landlord."
9. Section 2(3) of the *Residential Tenancies Act, 2006* (Act) provides that a rental unit is not considered abandoned where the tenant is not in arrears of rent. Further, in *1162994 Ontario Inc. v. Bakker*, 2004 CanLII 59995 (ON CA), paragraphs 18 to 22 state:

(18) ".....I think the requirement that the tenant be "in possession of the rental unit" at the time of the application reflects a determination that rent arrears disputes can be resolved efficiently and fairly through the Tribunal where the tenant at the time of the application continues to have some connection with the rental unit and, therefore, some relationship with the landlord. Situations where that connection has been severed and the relationship gone are best resolved through the more formal court processes.

(19) Some further assistance in defining "tenant in possession" is found by an examination of s. 86(2). That subsection provides that a landlord may be compensated for "the use and occupation" of a rental unit after notice of termination of the lease. A landlord can only be compensated, however, if the tenant is "in possession of the rental unit" when the landlord's application is made. This suggests that a "tenant in possession" is a person who was using or occupying the rental unit at the time of the application but does not necessarily indicate that the phrase is limited to users and occupiers.

(20) Possession is a difficult concept to define. Both in common and legal parlance, it connotes some form of control over the thing said to be possessed: e.g. D. Dukelow, B. Nuse, *The Dictionary of Canadian Law* 2nd ed., (1995) Carswell at p. 916; *The Shorter Oxford English Dictionary*, Vol. II (1973) p. 1635. Clearly, possession in s. 86(1)(b) is not limited to immediate physical control. For example, a tenant who locks up a rental unit and leaves on an extended vacation, continues to exercise sufficient control over that rental unit so as to qualify as a "tenant in possession" for the purposes of s. 86(1)(b). In my view, 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 unit.

(21) There will be cases, although I would not think a great many, where a determination of whether the tenant was "in possession of the rental unit" at the time of the application will raise a difficult issue. In those cases, the Tribunal will have to decide, based on the evidence, whether there is a sufficient connection between the rental unit and the tenant to permit a finding that the tenant was "in possession" of that rental unit.

(22) In this case, there was no connection between Bakker and the rental unit at the time the s. 86 application was commenced. Bakker exercised no control over that unit. He had unequivocally, completely, and permanently vacated the unit more than two years before the application."

10. As can be seen from this quote the question of possession is a factual one to be determined on a case by case basis. The Board is to look at each case and determine what sort of control the individual exercises over the unit at the time the application was filed, whether or not he or she had access to it, used it for any purpose, or otherwise had a connection to it.
11. In this case, the facts are that the Tenant has not paid the rent since July 2025, the Tenant ceased communication with the Landlord and the Landlord has been unable to get in touch with the Tenant despite repeated attempts. When the application was made, the Tenant had not been seen at the residential complex for many months, most the Tenant's personal belongings had been removed from the unit, the unit appeared unoccupied and mail had accumulated outside the door, and even the Tenant's support worker and other contacts had no communication with him for many months. Therefore, on a balance of probabilities, I am satisfied the Tenant is not in possession of the rental unit and has abandoned the unit. As a result, the Landlord's application is granted.
12. The Landlord's agent also requested the filing fee of \$186.00. The Landlord is not entitled to the filing fee on this application. As explained in the Board's Interpretation Guideline 4, "If the landlord is not sure whether or not a rental unit has been abandoned, they may file an application for determination of this issue with the Board; however, it should be noted the Board has no jurisdiction to issue an order for rent or compensation if a tenant is no longer in possession of the rental unit (see section 87)."

**It is ordered that:**

1. The tenancy between the Landlord and the Tenant is terminated as of May 25, 2026.

**May 25, 2026**  
**Date Issued**

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Adeela Alvez  
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.