



Order under Section 100 Residential Tenancies Act, 2006

Citation: The Effort Trust Company v Daugilis, 2026 ONLTB 37805

Date: 2026-05-26

File Number: LTB-L-088311-25

In the matter of: 602, 76 AIKMAN AVE
HAMILTON ON L8M1P9

Between: The Effort Trust Company Landlord

And

The Estate of Evelina Daugilis Tenant

And

Amy Dee Bowker Unauthorized Occupant

The Effort Trust Company (the 'Landlord') applied for an order to terminate the tenancy of The Estate of Evelina Daugilis (the 'Tenant') and evict Amy Dee Bowker (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 April 14, 2026.

The Landlord's Agent, Stella Farcas, the Landlord's Legal Representative, Benjamin R. Charlebois, the Tenant's Estate Executor, Edmund Paulauskas, Unauthorized Occupant, and the Unauthorized Occupant's Legal Representative, Vidy Matadeen, attended the hearing.

Determinations:

REASON 1: UNAUTHORIZED TRANSFER OF OCCUPANCY

1. The Landlord alleged that Amy Dee Bowker (ADB) is an unauthorized occupant and that she is not a party to the tenancy agreement.

Is ADB a Tenant?

2. The Landlord's Agent, Stella Farcas (SF), testified she is a property manager and that the Tenant, Evelina Daugilis, started her tenancy on January 1, 1991 and she was the sole tenant of the rental unit. SF further testified that there was no request by the Tenant to add other occupants to the agreement or to add other tenants.

3. SF testified that she received a letter from the Estate of Evelina Douglas through Edmund Paulauskas (EP) on August 21, 2025 stating that the Tenant had passed away on August 13, 2025. SF testified that she was not aware that anyone else was living in the unit with the Tenant, and the Estate proposed that the tenancy would end on September 30, 2025 to allow for time after the funeral and to account for the last months rent deposit.
4. SF testified that she had spoken to EP while the Tenant was alive on August 12, 2025 about what would happen if she needed to transition to a care facility, and SF testified she told EP that the Tenant would need to provide an N11 notice, and she emailed him the blank form. EP testified that during this conversation that he had mentioned to SF that ADB was living with the Tenant, and SF told him ADB would need to move out. SF testified that EP had mentioned there was a caregiver but did not specify it was ADB or that someone was living with the Tenant, while EP testified that he told SF that ADB was the primary caregiver and living in the rental unit.
5. SF testified that she was not aware of the Tenant passing away prior to receiving the letter on August 21, 2025. ADB testified that the Landlord was notified on August 14, 2025 when she told the interim superintendent Tracey. ADB testified that during this conversation she called her mother, Deanna Griffin (DG), as Tracey was previously the superintendent at DG's apartment complex. DG and ADB testified that they talked to Tracey about ADB wanting to remain as a tenant, and Tracey explained ADB would need to apply, but ADB and DG felt she was already an existing tenant. SF testified she had no knowledge of ADB and DG speaking with Tracey.
6. ADB testified she has been living in the rental unit with the Tenant for 18 years, and moved in when she was approximately 13 years old. ADB acknowledged that her grandmother was the only tenant listed on the lease, she never completed an application to add her to the lease, and she was not aware of any documentation that the Landlord accepted her as a tenant. The parties did not dispute that ADB has the rental address listed on all of her personal documents. ADB testified that the prior superintendent, Jeff, who has passed away, was aware she was living in the rental unit, and in January 2020 there was a complaint against ADB, though the letter was only addressed to her grandmother, the Tenant. ADB also testified that when maintenance was done she would often be present in the rental unit, though she acknowledged that communications were only ever addressed to her grandmother. ADB testified she felt that she was a tenant as she has lived in the rental unit for almost 2 decades, the superintendent was aware she was living in the rental unit for the 7 years he worked there, and she paid \$600.00 per month for room and board, though ADB stated this was paid directly to her grandmother, not the Landlord.
7. I am satisfied that the Landlord has established on a balance of probabilities that ADB is not a tenant under the Act. While ADB has been a long-term occupant, that does not mean she is a tenant pursuant to *Interpretation Guideline 21*:

“An occupant or roommate lives in the rental unit at the invitation and at the indulgence of the tenant and under the terms of the tenancy. An occupant or roommate cannot file an application at the LTB relating to the tenancy against either the landlord or the tenant.

Since an occupant or a roommate is not a tenant, that person has no contractual relationship with the landlord, regardless of whether the occupant or roommate pays a fee to the tenant or subtenant to reside in the rental unit.

Where an occupant pays part of the rent directly to the tenant, the occupant does not become a tenant. Where the occupant pays part of the rent directly to the landlord, the payment of rent does not automatically result in the occupant becoming a tenant. A determination as to whether that occupant is a tenant will depend upon the facts in each case at the LTB.”

8. ADB testified she has never made payments to the Landlord, she has never been listed as a tenant on the lease, and she has never applied to be added as a tenant on the lease. Therefore, I find that ADB is not a tenant.

If ADB is not a Tenant, did the Landlord apply in time?

9. ADB stated that even if she is was not a tenant under the tenancy agreement, as the Landlord was notified on August 14, 2025 that the Tenant had died and they did not file the A2 application until October 16, 2025, then pursuant to section 100(2) of the *Residential Tenancies Act, 2006* (the ‘Act’), she became a tenant as the Landlord failed to file the application within 60 days of discovering she was an unauthorized occupant.
10. The Landlord disputed this interpretation and stated that pursuant to section 91(1) of the Act, the tenancy is deemed terminated 30 days after the death of a tenant, and therefore the 60 days does not start running until after the tenancy has terminated.
11. In regard to section 100(2) of the Act, I am not satisfied that even if notice had been given to the Landlord of the Tenant’s death on August 14, 2025, that this is the date that the 60 days is counted from.
12. Section 91(1) of the Act states: “If a tenant of a rental unit dies and there are no other tenants of the rental unit, the tenancy shall be deemed to be terminated 30 days after the death of the tenant.”
13. As I have found that ADB was not a tenant, the tenancy would terminate by operation of law on September 13, 2025. Even if the Landlord was notified of the Tenant’s death on August 14, 2025, it would then be 60 days from the date of termination that the Landlord would need to file their A2 application, which they did on October 16, 2025. So regardless of whether the notification was on August 14, 2025 or August 21, 2025, section 100(2) would not apply as 60 days had not elapsed from the date the tenancy was terminated and ADB became an unauthorized occupant in the unit. Therefore, I find that ADB did not become a tenant pursuant to section 100(2) as the Landlord filed their A2 application within 60 days of the unauthorized transfer or occupancy.

Daily Compensation

14. The Landlord is entitled to compensation for the use and occupation of the rental unit by the Unauthorized Occupant. The Estate of Evelina Daugilis negotiated for the tenancy agreement to be terminated on September 30, 2025.
15. The Unauthorized Occupant owes the Landlord \$4,868.64 in daily compensation for use and occupation of the rental unit for the period from October 1, 2025 to the April 14, 2026.
16. Since the Landlord became aware of the Unauthorized Occupant, the Tenant and/or Unauthorized Occupant paid the Landlord \$0.00 in compensation for use of the rental unit. ADB testified that she attempted to pay rent for October 2025, however this was declined by the Landlord. John Lawson (JL), the property manager, testified that the Landlord declined to accept rent from ADB as they thought it would make it seem like she was a tenant. JL testified that ADB made one payment, which was rejected, but has not made any further attempts since September 2025.
17. Based on the Monthly rent, the daily compensation is \$24.84. This amount is calculated as follows: $\$755.42 \times 12 \text{ months}$, divided by 365 days.
18. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.

Section 83 Considerations

19. ADB testified that if evicted she will be homeless and this will greatly affect her health. ADB testified she does not want to move as she has lived there for almost 2 decades and would need awhile to find an alternative accommodation. ADB testified she receives funding from the Ontario Disability Support Program (ODSP) and she has a physical disability that affects her ability to walk. ADB also testified that she has mental health issues that will be impacted by an eviction. ADB testified she has not yet made any attempts to find alternative accommodations, and was denied a couple years ago as she receives ODP.
20. The Landlord stated that they have not received rent for the unit in 7 months. However, the Landlord also testified that the lack of payment is due to their refusal to accept any rent payments from ADB.
21. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would not be unfair to postpone the eviction until June 30, 2026 pursuant to subsection 83(1)(b) of the Act. I accept ADB's evidence that she will be impacted by an eviction and that this has been her home for most of her life, therefore I find a short delay in eviction would provide her the opportunity to find alternative accommodations and mitigate the impact. However, given that rent for the unit has not been paid for 7 months, even though due to the Landlord's own actions, I find a longer delay would be unfair.

It is ordered that:

1. The tenancy between the Landlord and the Estate of the Tenant is terminated.
2. The Unauthorized Occupant shall move out of the rental unit on or before June 30, 2026.
3. If the unit is not vacated by June 30, 2026, then starting July 1, 2026, the Landlord may file this order with the Court Enforcement Office (the Sheriff), so that the eviction may be enforced.
4. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord after July 1, 2026.
5. The Unauthorized Occupant shall pay to the Landlord \$4,893.48 which represents daily compensation for the use of the rental unit from September 30, 2025 to the April 14, 2026.
6. The Unauthorized Occupant shall also pay the Landlord \$201.00 for the cost of filing the application.
7. The Unauthorized Occupant shall pay the Landlord the full amount owing by June 30, 2026.
8. If the Unauthorized Occupant does not pay the Landlord the full amount owing by June 30, 2026 they will owe interest. This will be simple interest calculated from July 1, 2026 at 4.00% on the outstanding balance.

May 26, 2026
Date Issued

Allana McComb
Member, Landlord and Tenant Board

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Toronto ON M7A 2G6

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

In accordance with section 81 of the Act, the part of this order relating to the eviction expires on January 1, 2027 if the order has not been filed on or before this date with the Court Enforcement Office (Sheriff) that has territorial jurisdiction where the rental unit is located.