



Order under Section 79 Residential Tenancies Act, 2006

File Number: LTB-L-085508-25

In the matter of: 1902, 30 MUTUAL ST
TORONTO ON M5B0E4

Between: 88 Queen Fitzrovia Inc. and Ontari Holdings Ltd. Landlord

And

Melissa Samaniego Espinoza Tenant

88 Queen Fitzrovia Inc. and Ontari Holdings Ltd. (the 'Landlord') applied for an order to terminate the tenancy and evict Melissa Samaniego Espinoza (the 'Tenant') because the Landlord believes that the Tenant abandoned the unit.

The Landlord also claimed charges related to NSF cheques.

This application was heard by videoconference on April 13, 2026.

Only the Landlord's legal representative, Kevin Lundy and the Landlord's agent, Leonel Lopez attended the hearing.

As of 9:33 a.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. 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. The Landlord's legal representative submitted that, on December 10, 2025, the Tenant responded to correspondence regarding the Landlord's application and advised that she had never moved into the rental unit.
2. The Landlord's witness, Leonel Lopez ('LL'), testified that he is the Property Manager for the residential complex and acts as the Landlord's agent in relation to the rental unit.
3. LL referred to the written tenancy agreement entered into evidence. The agreement was signed by the parties and provided for a fixed-term tenancy commencing on September 2, 2025 and ending on September 1, 2026.

4. LL testified that the rental unit was available for occupancy on September 2, 2025 and that there were no circumstances preventing the Landlord from providing vacant possession to the Tenant.
5. LL further testified that the Tenant provided a payment intended to satisfy the last month's rent deposit in the amount of \$5,150.00; however, the payment was subsequently returned due to insufficient funds.
6. LL testified that following the commencement date of the tenancy, the Landlord made several attempts to contact the Tenant regarding the tenancy and her intentions with respect to the rental unit. According to LL, the Tenant did not respond to those communications until December 10, 2025.
7. LL stated that the Landlord did not attempt to re-rent the rental unit because the Tenant had not communicated whether she intended to take possession of the unit. As a result, the Landlord continued to hold the rental unit and awaited the outcome of this proceeding.
8. The evidence before me establishes that the Tenant never took possession of the rental unit, never occupied the rental unit, and did not communicate with the Landlord regarding her intention not to move into the unit until December 10, 2025.
9. I accept the evidence of LL. His testimony was straightforward and credible. There was no evidence contradicting his testimony that the rental unit was available for occupancy on September 2, 2025 and that repeated efforts were made to contact the Tenant.
10. I have also considered the Landlord's decision not to re-rent the rental unit prior to receiving clarification regarding the Tenant's intentions. In the circumstances, I find the Landlord's actions were reasonable. Although the Tenant had not taken possession of the rental unit, she had entered into a binding tenancy agreement and had not communicated to the Landlord that she did not intend to proceed with the tenancy. Had the Landlord re-rented the rental unit without confirmation that the Tenant was relinquishing her rights under the tenancy agreement, the Landlord would have faced the risk of a claim that possession had been improperly denied or that the tenancy had been unlawfully terminated. In the absence of any communication from the Tenant regarding her intentions, it was reasonable for the Landlord to await further information before taking steps to re-rent the rental unit.
11. Based on the Tenant's December 10, 2025 communication confirming that she had never moved into the rental unit, together with the undisputed evidence that she never took possession, never occupied the unit, failed to honour the last month's rent deposit payment, and failed to communicate her intentions to the Landlord for more than three months after the tenancy was to commence, I find that the Tenant had no intention of taking possession of the rental unit.
12. In the circumstances, I find that the Tenant abandoned the tenancy. The clearest indication of abandonment occurred on December 10, 2025, when the Tenant expressly advised that she had never moved into the rental unit. By that date, the Tenant had neither occupied the unit nor taken any steps consistent with an intention to commence the tenancy.

13. Accordingly, I find that the rental unit was abandoned by the Tenant effective December 10, 2025, and that the tenancy terminated on that date.
14. The Landlord is entitled to \$20.00 to reimburse the Landlord for administration charges the Landlord incurred as a result of payment made on behalf of the Tenant which was returned NSF.
15. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
16. There is no last month's rent deposit.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated, as of December 10, 2025.
2. The Tenant shall pay to the Landlord \$20.00, for administration charges for payment made by or on behalf of the Tenant which was returned NSF.
3. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
4. The total amount the Tenant must pay the Landlord is \$206.00.
5. If the Tenant does not pay the Landlord the full amount owing on or before June 22, 2026, the Tenant will start to owe interest. This will be simple interest calculated from June 23, 2026 at 4.00% annually on the balance outstanding.

June 11, 2026

Date Issued

Christina Philp

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.