



Order under Section 21.2 of the Statutory Powers Procedure Act and the Residential Tenancies Act, 2006

Citation: 1212763 Ontario Ltd v Moody, 2026 ONLTB 45198

Date: 2026-06-05

File Number: LTB-L-104442-25-RV

In the matter of: 1103, 190 Exbury Road
Toronto Ontario M3M1R8

Between: 1212763 Ontario Ltd Landlord

And

Carmeta Moody Tenant

And

Joy Brown Unauthorized
Occupant

Review Order

1212763 Ontario Ltd (the 'Landlord') applied for an order to terminate the tenancy of Carmeta Moody (the 'Tenant') and evict Joy Brown (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 resolved by order LTB-L-104442-25 issued on May 4, 2026.

On June 4, 2026, the Unauthorized Occupant requested a review of the order.

A preliminary review of the review request was completed without a hearing.

Determinations:

1. The Unauthorized Occupant submits that the Member failed to analyze the Landlord's evidence and shifted the burden of proof to the Unauthorized Occupant.
2. The Unauthorized Occupant points out that the Landlord has the burden of proving the application. This is correct. The ground for this application is that the Tenant transferred occupancy to another person and that this transfer was not authorized. In this case it was uncontested that the Tenant and her spouse had passed away, that the Unauthorized Occupant is living in the unit, and that the Unauthorized Occupant has not entered into a

tenancy agreement with the Landlord. These uncontested facts are sufficient to make out the ground for the application.

3. Subsection 100(2) of the *Residential Tenancies Act, 2006* (the 'Act') requires that a landlord file an application for a determination that a tenant has transferred occupancy of the rental unit to an unauthorized person within 60 days of discovering the unauthorized occupancy. If a landlord fails to file the application in time, by operation of subs. 104(4) of the Act the unauthorized occupant is deemed to be a tenant.
4. In this case, the Landlord had been aware for years that the Tenant had died and that the Unauthorized Occupant was living in the unit. The triggering event that caused transfer of occupancy of the unit was the death of the Tenant's spouse. A witness for the Landlord testified that the Landlord's staff became aware of the death of the Tenant's spouse in November 2025 when the Unauthorized Occupant filed an occupancy form with the Landlord. The Unauthorized Occupant sought to rebut this evidence with testimony that in or around March 2024 she had orally informed the superintendent, Alliston, that the Tenant's spouse had passed away. At this point the Unauthorized Occupant had the evidentiary burden to establish that the Landlord was aware of the Tenant's spouse's death earlier than in November 2025. The Member found the Unauthorized Occupant's testimony to be vague as to the date she filed the occupancy form, which is a key date in this issue. At paragraph 9 of the order the Member found it was more likely than not that the Landlord's witness had only become aware of the Tenant's spouse's passing in November 2025.
5. The Unauthorized Occupant submits that it is the Landlord's awareness, not the awareness of staff person who was hired only two years ago, that is relevant. I agree. However, the reference to the Landlord's witness at paragraph 9 is a minor error in the sense that it is incomplete. The audio recording shows that the Landlord's witness testified that the Landlord's staff had informed her that they discovered the death of the Tenant's husband only a few days before advising the witness. Basically the Landlord's witness testified that the Landlord discovered the death of the Tenant's spouse a few days before November 19, 2025. Further, it is clear from the rest of the order, especially paragraph 2, that the Member meant to say that the Landlord's staff became aware of the passing of the Tenant's spouse a few days before November 19, 2025.
6. Given the above, I am not satisfied that the Member failed to analyze the Landlord's evidence and shifted the burden of proof to the Unauthorized Occupant or that the Member failed to consider when the Landlord, as opposed to the Landlord's witness, discovered the transfer.
7. The Unauthorized Occupant submits that the parties submitted caselaw that the Member did not consider. The Unauthorized Occupant does not submit that the outcome of this matter would have been different if the Member had considered any particular case. The Unauthorized Occupant does not state what cases were submitted to the Member and whether any of them were court cases (which are binding if they are relevant) as opposed to LTB cases (which are not binding). In these circumstances I am not satisfied that the Member failed to consider any relevant case law.

8. On the basis of the submissions made in the request, I am not satisfied that there is a serious error in the order or that a serious error occurred in the proceedings.

It is ordered that:

1. The request to review order LTB-L-104442-25 issued on May 4, 2026 is denied. The order is confirmed and remains unchanged.

June 5, 2026
Date Issued

Renée Lang
Vice Chair, 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.