



**Order under Section 69
Residential Tenancies Act, 2006**

File Number: LTB-L-106788-25

In the matter of: 205, 41 JOHNSON ST
BARRIE ON L4M0L6

Between: MetCap Living Management Inc. Landlord

And

Jacob Holmes Tenants
Anna Holmes

MetCap Living Management Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Jacob Holmes and Anna Holmes (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on June 8, 2026. The Landlord's Legal Representative, Krizia Hernandez, and the Tenants attended the hearing.

Determinations:

1. At the hearing it was not disputed that the tenancy terminated and that Tenants vacated the rental unit. What was in dispute was the date that they vacated. It was the Landlord's position that the tenants vacated on December 31, 2025 as this was date the Tenants had communicated to the Landlord's staff. It was the Tenants' position that they vacated on November 1, 2025 and that the Tenants notified the Landlord's staff that this was the date they were vacating.
2. The Landlord served the Tenants with a valid Notice to End Tenancy Early for Non-payment of Rent with a termination date of November 11, 2025 (the 'N4 Notice').
3. The Landlord's L1 application to terminate the tenancy and collect the arrears was filed on December 18, 2025. This type of application can only be filed if the tenant is still in possession of the rental unit at the time the application is filed.
4. The Landlord's Legal Representative relied on a Vacancy Notice that was tendered as evidence in support of the Landlord's position that the Tenants vacated the rental unit on December 31, 2025. The Vacancy Notice stated that "as per VP Michael Guyette, notice date November 1, 2025 and move out date is December 31, 2025."

5. It was the Tenants evidence they had originally reached out to the Landlord and started communicating with Michael Guyette ('MG') because they wanted to sublet the rental unit. The Tenants were told that they could not sublet the unit but they could find someone to assign the tenancy to. The Tenants ultimately found someone to assign the tenancy to and they were able to take over the lease effective November 1, 2026. However, upon messaging MG on October 31, 2025, the Tenants learned that the application was not approved. In response, the Tenants notified MG that they would be vacating the unit the next day. A copy of the text message correspondence was tendered as evidence.
6. In reviewing the text messages, I note that the Tenants referred to the N4 Notice and stated that they were accepting the Landlord's eviction notice and would be moving out the next day. Specifically, the message states:

“...We have received our second eviction notice, stating our September payment still hasn't been corrected. We are going forward with accepting this notice and will be moving out tomorrow evening.”
7. It was the Tenants' evidence that they did, in fact, vacate the unit the next day and that they did not return the keys to the rental unit because there is no physical key to the unit. Rather it is a code. As for the keys for the mailbox and the building, the Tenants stated that they left those inside the rental unit.
8. The Landlord's Legal Representative submitted that, because the Tenants did not return the keys to the residential complex and the mailbox, the Landlord had no way of knowing that they vacated on November 1, 2025. The same argument could be made with respect to the December 31, 2025 termination date in the Vacancy Notice, which the Landlord accepted without the return of the keys, and so I do not find this argument overly persuasive.
9. I do not find the Vacancy Notice to be persuasive either. In this regard, it does not appear to be completed properly. Firstly, the box for 'Proper Notice' was checked and set out a move out date of December 31, 2025. However, the note quoted in paragraph 6 above was under 'Short (Improper) Notice'. Moreover, the form itself was not completed by MG, who was the person who had been communicating with the Tenants by text message, and the form was dated September 9, 2026, almost a year after the Tenants vacated. The form provides no helpful insights as to how the move out date of December 31, 2025 was arrived at and MG did not attend the hearing to give evidence regarding the move out date.
10. The fact remains that the Landlord gave the Tenants the N4 Notice which essentially told the Tenants to either pay the arrears in full or move out by November 11, 2025. The Tenants clearly accepted termination of the tenancy in the N4 Notice by text message on October 31, 2025. In light of this, I find that it is more likely than not that the Landlord knew or ought to have known that the Tenants vacated in or around November 1, 2026.
11. For these reasons, I find that the Tenants were not in possession of the rental unit on the date the application was filed and therefore the application must be dismissed.

It is ordered that:

1. The Landlord's application is dismissed.

June 18, 2026

Date Issued

Rachel Gibbons

Member, Landlord and Tenant Board

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