



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

File Number: LTB-L-031884-26

In the matter of: 506, 380 COCHRANE RD
HAMILTON ON L8K 6H8

Between: C. Valery Construction o/a Valery Properties Landlord

And

Trevor Ivor Shields Tenant

C. Valery Construction o/a Valery Properties (the 'Landlord') applied for an order to terminate the tenancy and evict Trevor Ivor Shields (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on June 17, 2026.

The Landlord and the Tenant attended the hearing.

Only the Landlord's agent, Tina Novak attended the hearing.

As of 1:30pm, 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:

Preliminary Issue:

Board's Jurisdiction

1. The uncontested evidence before me of the Landlord's agent was that an individual named Karen Pierriere ('KP') claiming to be the Tenant's Power of Attorney called her on June 10, 2026 and informed her the Tenant had vacated in February 2026. Further, the Landlord's agent stated that KP claimed a new individual named Orinthia Speid was occupying the rental unit. Finally, the Landlord's agent stated she had sent the zoom link for the hearing directly to KP and she was expected to attend the hearing.
2. The Tenant has not returned the keys to the Landlord or informed the Landlord that he does not intend to return to the rental unit.

3. Under s.87(1.1) of the Act, an L1 application can only be filed while a tenant is still in possession of the rental unit. Therefore, I must determine whether the Tenant was in possession of the rental unit when this application was filed on April 10, 2026.
4. The leading case on the meaning of "in possession" is the Court of Appeal's decision in *1162994 Ontario Inc. v. Bakker*, 2004 CanLII 59995 (ON CA) ('Bakker'). It says (at paragraphs 18 to 22):

[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 the 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.

[Emphasis added.]

5. While the evidence before me is that the Tenant moved prior to the service of the N4 Notice, I have no evidence that the Tenant will not return to the rental unit. In fact, the Tenant continues to demonstrate some degree of control over the rental unit as he has keys to the unit and has not removed his belongings. There was no evidence before me to suggest the Tenant had established primary residence elsewhere or does not intend to return to the rental unit.
6. While the Tenant may not have been occupying the rental unit on the date the Landlord's agent served the N4 Notice, having considered all of the circumstances, I find that the Tenant was in possession of the rental unit on February 5, 2026, the date the application was filed, within the meaning of the Act according to the test outlined in *Bakker*.

L1 Application

1. The Landlord served the Tenant with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). The Tenant did not void the notice by paying the amount of rent arrears owing by the termination date in the N4 Notice or before the date the application was filed.
2. As of the hearing date, the Tenant was still in possession of the rental unit.
3. The lawful rent is \$1,495.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$49.15. This amount is calculated as follows: \$1,495.00 x 12, divided by 365 days.
5. The Tenant has paid \$2,052.00 to the Landlord since the application was filed.
6. The rent arrears owing to June 30, 2026 are \$3,125.00.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlord collected a rent deposit of \$1,495.00 from the Tenant and this deposit is still being held by the Landlord. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.
9. Interest on the rent deposit, in the amount of \$43.18 is owing to the Tenant for the period from February 1, 2025 to June 17, 2026.
10. The Landlord's agent has attempted to negotiate a payment plan with the Tenant, the Tenant has not communicated with the Landlord.
11. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including whether the Landlord attempted to negotiate a repayment agreement with the Tenant and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.
2. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$3,311.00 if the payment is made on or before June 30, 2026. See Schedule 1 for the calculation of the amount owing.

OR

- \$4,806.00 if the payment is made on or before July 11, 2026. See Schedule 1 for the calculation of the amount owing.
3. The Tenant may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenant has paid the full amount owing as ordered plus any additional rent that became due after July 11, 2026 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.
 4. **If the Tenant does not pay the amount required to void this order the Tenant must move out of the rental unit on or before July 11, 2026.**
 5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$1,113.37. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. The rent deposit and interest the Landlord owes on the rent deposit are deducted from the amount owing by the Tenant. See Schedule 1 for the calculation of the amount owing.
 6. The Tenant shall also pay the Landlord compensation of \$49.15 per day for the use of the unit starting June 18, 2026 until the date the Tenant moves out of the unit.
 7. If the Tenant does not pay the Landlord the full amount owing on or before July 11, 2026, the Tenant will start to owe interest. This will be simple interest calculated from July 12, 2026 at 4.00% annually on the balance outstanding.
 8. If the unit is not vacated on or before July 11, 2026, then starting July 12, 2026, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
 9. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord on or after July 12, 2026.

June 30, 2026
Date Issued

Angela Smith
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.

In accordance with section 81 of the Act, the part of this order relating to the eviction expires on January 12, 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.

Schedule 1
SUMMARY OF CALCULATIONS

A. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before June 30, 2026

Rent Owing To June 30, 2026	\$5,177.00
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$2,052.00
Total the Tenant must pay to continue the tenancy	\$3,311.00

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before July 11, 2026

Rent Owing To July 31, 2026	\$6,672.00
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$2,052.00
Total the Tenant must pay to continue the tenancy	\$4,806.00

C. Amount the Tenant must pay if the tenancy is terminated

Rent Owing To Hearing Date	\$4,517.55
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$2,052.00
Less the amount of the last month's rent deposit	- \$1,495.00
Less the amount of the interest on the last month's rent deposit	- \$43.18
Total amount owing to the Landlord	\$1,113.37
Plus daily compensation owing for each day of occupation starting June 18, 2026	\$49.15 (per day)
**Ongoing daily compensation continues to accumulate until the total amount owing (excluding costs) is \$50,000.00.	