



Order under Section 100 Residential Tenancies Act, 2006

File Number: LTB-L-036441-26

In the matter of: Unit 1, 123 Herbert St
Limoges ON K0A2M0

Between: Richard Bourgeois Landlord

And

Jason Schofield Tenant

And

Rossilla Waever Unauthorized Occupant

Richard Bourgeois (the 'Landlord') applied for an order to terminate the tenancy of Jason Schofield (the 'Tenant') and evict Rossilla Waever (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 June 15, 2026.

The Landlord, and the Unauthorized Occupant's Legal Representative, Vanessa Allard-Beauchamps, attended the hearing. The Unauthorized Occupant was not present. Fritz Pierre and Luc Groulx attended the hearing as witnesses on behalf of the Landlord, but did not end up testifying.

As of 1:30 p.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:

Preliminary Issue:

1. The Landlord filed the A2 application under section 100(1) of the *Residential Tenancies Act, 2006* (the 'Act'), which authorizes the Landlord to apply to the Board for termination of the tenancy where the tenant has transferred occupancy of the rental unit without the Landlord's consent. Section 100(2) of the Act provides that the application must be made no later than 60 days after the landlord discovered the unauthorized occupancy.

2. The application was filed on April 7, 2026. In the application, the Landlord indicates that he discovered the Unauthorized Tenant in the rental unit on February 2, 2026, which is more than the 60-day limitation period as set out in the Act. At the hearing, the Landlord acknowledges he knew about the Unauthorized Occupant on February 2, 2026. I do not have any jurisdiction to alter the limitation period in section 100(2) of the Act.

3. In addition to the above, section 104(4) of the Act states in part:

(4) A person's occupation of a rental unit shall be deemed to be an assignment of the rental unit with the consent of the landlord as of the date the unauthorized occupancy began if,

(a) a tenancy agreement is not entered into under subsection (1) or (2) within the period set out in subsection (3);

(b) the landlord does not apply to the Board under section 100 for an order evicting the person within 60 days of the landlord discovering the unauthorized occupancy;

[emphasis added]

4. Based on the evidence and submissions before the Board, I find that the Landlord's application was filed more than 60 days after the Landlord was aware that the Unauthorized Occupant was living there. As such, the current Unauthorized Occupant of the rental unit is deemed the lawful tenant of the rental unit pursuant to section 104(4)(b) of the Act and the Landlord's application must be dismissed.

5. This order contains all the reasons for the decision within it. No further reasons will issue.

It is ordered that:

1. The Landlord's application is dismissed.

June 24, 2026
Date Issued

Paula West Oreskovich
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.