

Order under Subsection 87(1)
Residential Tenancies Act, 2006

File Number: TNL-32122-21

In the matter of: 808, 3303 DON MILLS ROAD
TORONTO ON M2J4T6

Between: Stephen Tsang Landlord

and

Layrel McMullen Tenant

Stephen Tsang (the 'Landlord') applied for an order requiring Layrel McMullen (the 'Tenant') to pay the rent that the Tenant owes.

This application was heard by videoconference on July 12, 2021.

The Landlord and the Tenant attended the hearing.

Determinations:

1. The Landlord's L9 application was filed pursuant to subsection 87 of the Residential Tenancies Act, 2006 which states:

87 (1) A landlord may apply to the Board for an order for the payment of arrears of rent if,

(a) the tenant has not paid rent lawfully required under the tenancy agreement; and

(b) **the tenant is in possession of the rental unit.**

[Emphasis added.]

2. At the hearing, the evidence before the Board was the Tenant vacated the rental unit on March 16, 2021, four days before the Landlord's application was filed. This was confirmed on the Landlord's L1/L9 Information Update sheet that was filed with the Board prior to the hearing.
3. Based on the evidence before the Board, I find that the Tenant was not in possession of the rental unit at the time the application was filed, on March 20, 2021, and the Landlord's application must be dismissed.

4. This order contains all of the reasons for my decision within it. No further reasons shall be issued.

It is ordered that:

1. The Landlord's application is dismissed.



Sonia Anwar-Ali
Member, Landlord and Tenant Board

September 23, 2021
Date Issued

Toronto North-RO
47 Sheppard Avenue East, Suite 700, 7th Floor
Toronto ON M2N5X5

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