



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

Citation: Vanderzwet v Mallory, 2024 ONLTB 27943

Date: 2024-04-19

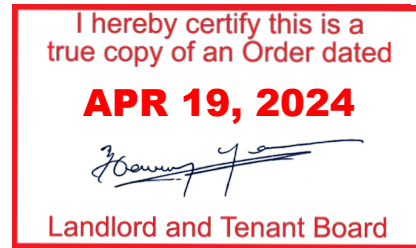
File Number: LTB-L-077920-23

In the matter of: 307, 3 APPLE ST
BROCKVILLE ON K6V4X5

Between: Peter Vanderzwet

And

Hana Mallory



Landlord

Tenant

Peter Vanderzwet (the 'Landlord') applied for an order to terminate the tenancy and evict Hana Mallory (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on March 5, 2024.

Only the Landlord attended the hearing.

As of 10:30AM, 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:

1. The Tenant was in possession of the rental unit on the date the application was filed.
2. The Tenant vacated the rental unit on February 29, 2024. At the hearing, the Landlord testified that the Tenant is still on a fixed term lease. As a result, the Landlord claimed rent arrears to the end of March as proper Notice was not given.
3. Section 83(2) of the Residential Tenancies Act, 2006 (the 'Act') reads as follows:

37 (1) A tenancy may be terminated only in accordance with this Act.

(2) If a notice of termination is given in accordance with this Act and the tenant vacates the rental unit in accordance with the notice, the tenancy is terminated on the termination date set out in the notice. [Emphasis mine]

4. The Landlord served the Tenant with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). And 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. However, the Tenant voided the Notice by vacating prior to the hearing. Thus, arrears are calculated to that date. This is in line with Board Interpretation Guideline 11

and Board practice, as in order CEL-95902-20. Thus, the Rent arrears are calculated up to the date the Tenant vacated the unit.

5. The lawful rent is \$1,550.00. It was due on the 1st day of each month.
6. The Tenant has not made any payments since the application was filed.
7. The rent arrears owing to February 29, 2024 are \$9,300.00.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. There is no last month's rent deposit.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated as of February 29, 2024, the date the Tenant moved out of the rental unit
2. The Tenant shall pay to the Landlord \$9,486.00. This amount includes rent arrears owing up to the date the Tenant moved out of the rental unit and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.
3. If the Tenant does not pay the Landlord the full amount owing on or before April 22, 2024, the Tenant will start to owe interest. This will be simple interest calculated from April 23, 2024 at 7.00% annually on the balance outstanding.

April 19, 2024
Date Issued



Henry Yeung
Member, Landlord and Tenant Board

15 Grosvenor St, 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.

Schedule 1
SUMMARY OF CALCULATIONS

A. Amount the Tenant must pay as the tenancy is terminated

Rent Owing To Move Out Date	\$9,300.00
Application Filing Fee	\$186.00
Total amount owing to the Landlord	\$9,486.00