



Order under Section 69
Residential Tenancies Act, 2006

File Number: TNL-28932-20

In the matter of: 222, 33 COX BOULEVARD
MARKHAM ON L3R8A6

Between: Yanlan Zhang Landlord

and

Vladislav Zenchenko Tenants
Wesley Yoshida

Yanlan Zhang (the 'Landlord') applied for an order to terminate the tenancy and evict Wesley Yoshida and Vladislav Zenchenko (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on June 7, 2021. The Landlord's Legal Representative, C. Chang, attended the hearing on behalf of the Landlord. Wesley Yoshida ('WY') attended the hearing on behalf of the Tenants.

Analysis and reasons:

1. The parties agree that the Tenants vacated the rental unit prior to the hearing. The dispute in this application is with respect to the termination date of the tenancy.
2. The Landlord submitted that the Landlord served an N4 Notice of Termination (the 'N4 Notice') upon the Tenants on October 28, 2020 to terminate the tenancy for non-payment of rent. Subsequently, according to the Landlords, the Tenants gave vacant possession of the rental unit to the Landlord on November 3, 2020.
3. In support of the Landlord's position, the Landlord's Legal Representative filed as evidence with the Board photographs from the rental unit dated November 3, 2020 as well as text message correspondence between the Landlord and WY dated November 3, 2020, in which WY advises the Landlord that the keys to rental unit had been left at the front desk of the residential complex.
4. The Tenants disputed the Landlord's application. WY explained that he had gone to Florida in December 2019 to assist his son and was subsequently 'stuck' there due to the onset of the COVID-19 pandemic. WY stated that he did not have the Landlord's contact information other than a telephone number for an individual named Maggie. WY stated that he was unable to cross into Canada in February 2020 as the border was allegedly

closed at the time. WY stated that he then asked his brother to move out his belongings from the rental unit, which his brother supposedly did in February 2020. Based on this, WY took the position that the Tenants had vacated the rental unit in February 2020. WY stated that he had informed the Landlord via text message in February 2020 that his brother would be removing his belongings from the rental unit and that the Tenants would be vacating the rental unit at the time.

5. WY also alleged that the Landlord had failed to repair various issues at the rental unit in 2019 despite his repeated requests. These allegations were vague, and WY failed to provide specific dates and particulars with respect to these allegations. In addition, WY did not disclose these allegations in accordance with the notice requirements under section 82(2) of the *Residential Tenancies Act, 2006* (the 'Act') of his intention to raise these issues at the hearing. As such, I did not consider these allegations at the hearing.
6. When asked why he had not contacted the Landlord about his situation, WY testified that he had repeatedly attempted to contact the Landlord but that the Landlord had not responded to his messages. WY stated that it was not his fault that the Landlord had failed to contact him until October 2020 when he had attempted to contact the Landlord on several occasions in late-2019. WY also pointed out that he had no contact information for the Landlord except for this one telephone number.
7. I asked WY to submit copies of the correspondence from February 2020 in which he allegedly advised the Landlord that he was vacating the rental unit. WY stated that these messages are in his old phone which was not in his possession. WY was not able to provide copies of any text messages to the Board.
8. WY stated that the Tenant Vladislav Zenchenko was not in Canada and had not been in possession of the rental unit since late-2019.
9. In the absence of proof of the text messages which WY allegedly sent to the Landlord in February 2020, I am not satisfied that the Tenants vacated the rental unit in February 2020. WY repeatedly stated that he had no way of contacting the Landlord, but also stated that he had a telephone number for the Landlord to which he sent text messages on numerous occasions. However, he was unable to provide a copy of these messages to the Board. In contrast, the Landlord was able to provide copy of text message correspondence between the parties which shows that on November 3, 2020, WY advised the Landlord that the Tenants had vacated the rental unit and that the keys were at the front desk of the residential complex.
10. On a balance of probabilities, I find that the termination date for this tenancy to be November 3, 2020, which is the date on which the Landlord received vacant possession of the rental unit.

Determinations:

11. The Tenants have not paid the total rent the Tenants were required to pay for the period from May 15, 2020 to November 3, 2020. Because of the arrears, the Landlord served a Notice of Termination effective October 28, 2020.

12. The Tenants were in possession of the rental unit on the date the application was filed.
13. The Landlord is not holding a rent deposit.
14. The Tenants did not make any payments to the Landlord after the application was filed.
15. The Tenants gave vacant possession of the rental unit to the Landlord on November 3, 2020.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated as of November 3, 2020, the date the Tenants gave vacant possession of the rental unit to the Landlord.
2. The Tenants shall pay to the Landlord \$11,612.35*, which represents the amount of rent owing and compensation up to November 3, 2020.
3. The Tenants shall also pay to the Landlord \$186.00 for the cost of filing the application.
4. If the Tenants do not pay the Landlord the full amount owing* on or before November 6, 2021, the Tenants will start to owe interest. This will be simple interest calculated from November 7, 2021 at 2.00% annually on the balance outstanding.

October 26, 2021
Date Issued



Arnab Quadry
Member, Landlord and Tenant Board

Toronto North-RO
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Toronto ON M2N5X5

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

* Refer to section A on the attached Summary of Calculations.

**Schedule 1
SUMMARY OF CALCULATIONS**

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A. Amount the Tenants must pay as the tenancy is terminated:

Reasons for amount owing	Period	Amount
Arrears: (up to the termination date in the Notice of Termination)	May 15, 2020 to October 28, 2020	\$11,158.63
Plus compensation: (from the day after the termination date in the Notice to the date the rental unit was vacated)	October 29, 2020 to November 3, 2020	\$453.72
Amount owing to the Landlord on the order date: (total of previous boxes)		\$11,612.35
Additional costs the Tenants must pay to the Landlord:		\$186.00
Total the Tenants must pay the Landlord as the tenancy is terminated:		\$11,798.35

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