



## Order under Section 78(11) Residential Tenancies Act, 2006

**Citation:** Kozak v Rose, 2023 ONLTB 20271

**Date:** 2023-03-21

**File Number:** LTB-L-080953-22-SA

**In the matter of:** 4, 671 Grey Street  
Brantford ON N3S4Y2

**Between:** Roger Kozak Landlord

**And**

Haley Rose Tenants  
Shadow Moore

Roger Kozak (the 'Landlord') applied for an order to terminate the tenancy and evict Haley Rose and Shadow Moore (the 'Tenants') and for an order to have the Tenant pay the rent and compensation he owes because he failed to meet a condition specified in the order by the Board issued on February 8, 2022 with respect to application SOL-25414-21.

The Landlord's application was resolved by order LTB-L-080953-22, issued on February 14, 2023. This order was issued without a hearing being held.

The Tenants filed a motion to set aside order LTB-L-080953-22.

The motion was heard by videoconference on March 14, 2023.

The Landlord and the Tenants attended the hearing.

**Determinations:**

1. After considering all of the circumstances, I find that it would not be unfair to set aside order LTB-L-080953-22.
2. The Tenants paid \$312.00 of the \$400.00 that was due on October 21, 2022. The Tenant provided receipt issued by the Landlord which showed no outstanding balance of arrears owing to October 31, 2022 and through conversations with the Landlord the Tenants were led to believe there were no outstanding arrears that remained unpaid. The Landlord concedes that there was no outstanding balance showing on the October 2022 rent receipt which was an omission he caused. The Landlord's error caused confusion and it was only when the Tenants received the Board's order issued on February 14, 2023, that they became aware of the outstanding balance at which time, the Tenants paid the Landlord \$204.00 as supported by receipt they received from the Landlord which references the LTB Order. Since the Order dated February 8, 2022 is voided and the breach is considered minor, it is reasonable to grant the Tenants' motion caused by unforeseen circumstances.

**It is ordered that:**

1. The motion to set aside Order LTB-L-080953-22, issued on February 14, 2023, is granted.
2. Order LTB-L-080953-22, issued on February 14, 2023, is set aside and cannot be enforced.

**March 21, 2023**

**Date Issued**

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Sandra Macchione

Member, Landlord and Tenants 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.