



**Order under Section 87(1)
Residential Tenancies Act, 2006**

Citation: Grace Carnale-Davis v Favara, 2023 ONLTB 17907

Date: 2023-02-02

File Number: LTB-L-002749-22

In the matter of: 320, 2396 Major Mackenzie Dr
Maple ON L6A4Y1

Between: Grace Carnale-Davis Landlord

And

Mary Favara Tenant

Grace.Carnale-Davis (the 'Landlord') applied for an order to terminate the tenancy and evict Mary Favara (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 25, 2023.

Only the Landlord attended the hearing.

As of 12:12pm, the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was a request to reschedule the hearing on file that was uploaded by the Tenant, however, the Tenant did not provide reasons why they were unable to attend the hearing. The Landlord was opposed to the request to adjourn the matter.

Since the Tenant did not provide sufficient details regarding their request to adjourn the hearing, I am unable to determine whether an adjournment was appropriate under the circumstances. On this basis, the application proceeded with only the Landlord's uncontested evidence.

The Landlord had filed a combined L1/L2 application when they applied to the Board on the portal, however, there was no notice of termination or claim otherwise outlined on the L2 application and therefore the Landlord requested to withdraw the L2 application on the basis that it was mistakenly filed.

Determinations:

1. In accordance with subsection 200(4) of the *Residential Tenancies Act, 2006* (the 'Act') I consent to the withdrawal of the L2 application.
2. The Landlord served the Tenant with a Notice to End Tenancy Early for Non-payment of Rent (N4 Notice) on January 7, 2022. The termination date in the notice is February 3,

2022. The notice of termination was defective on its face for incorrectly identifying the rental period as running from the last day of the month to the first day of the following month. It should have been from the first of the month to the last day of the month for the rental period.

Terri van Huisstede

Member, Landlord and Tenant Board

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3. At the hearing the Landlord sought to amend their application for arrears of rent only on the basis that the Tenant had vacated the rental unit. The Landlord indicated that the rent arrears owing to January 31, 2022 was the correct amount listed on the L1 application as \$6,600.00. I see no reason to deny the Landlords request to amend their application.
4. The Tenant was in possession of the rental unit on the date the application was filed.
5. The Tenant vacated the rental unit on December 5, 2022. Rent arrears are calculated up to the date the Tenant vacated the unit.
6. The lawful rent is \$2,200.00. It was due on the 1st day of each month.
7. The Tenant has paid \$2,200.00 to the Landlord since the application was filed.
8. The rent arrears owing to December 5, 2022 are \$26,761.65.
9. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
10. The application is amended to reflect that the Landlord collected a last month's rent deposit of \$2,200.00 on June 11, 2020. The rent deposit is applied to the arrears of rent because the tenancy terminated.
11. Interest on the rent deposit, in the amount of \$39.27 is owing to the Tenant for the period from June 11, 2020 to December 5, 2022.

It is ordered that:

1. The Landlord's L2 application is withdrawn.
2. The tenancy between the Landlord and the Tenant is terminated as of December 5, 2022, the date the Tenant moved out of the rental unit
3. The Tenant shall pay to the Landlord \$26,908.38. 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. The deposit and interest are also deducted from the amount the Tenant owes. See Schedule 1 for the calculation of the amount owing.

4. If the Tenant does not pay the Landlord the full amount owing on or before February 13, 2023, the Tenant will start to owe interest. This will be simple interest calculated from February 14, 2023 at 5.00% annually on the balance outstanding.

February 2, 2023

Date Issued

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.

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**Schedule 1
SUMMARY OF CALCULATIONS**

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

Rent Owing To Move Out Date	\$28,961.65
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$2,200.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$39.27
Less the amount of the interest on the last month's rent deposit	- \$0.00
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total amount owing to the Landlord	\$26,908.38

