



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

Citation: Andreica v Rothwell, 2026 ONLTB 17150

Date: 2026-02-24

File Number: LTB-L-023363-25

In the matter of: 399 ERB ST W
WATERLOO ON N2L1W7

Between: Horatiu Andreica Landlord

And

Thomas Rothwell Tenants
Riley Sage
Kaylee Rothwell

And

Kamal Reddy Occupants
Sai Lakshmi Narasimhan

Horatiu Andreica (the 'Landlord') applied for an order requiring Thomas Rothwell, Riley Sage, Kaylee Rothwell, (the 'Tenants') to pay the rent that the Tenant owes.

This application was heard by videoconference on February 17, 2026.

The Landlord attended the hearing. The Occupants attended the hearing with their representative Claire Michela.

As of 9:30 AM the Tenants were 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 evidence of the Occupants and the Landlord.

Determinations:

Preliminary issue – Are the Occupants tenants?

1. At the outset of the hearing the Occupants submitted that they do not meet the definition of tenants under section 2 the *Residential Tenancies Act, 2006* (the 'Act')

2. The Landlord submits the Occupants are tenants and are joint and severally liable for the rent arrears outstanding.
3. As explained the below the Occupants do not meet the definition of tenants under the Act. Therefore, the Board lacks jurisdiction to order remedy against them.

Background

4. It is undisputed that the tenancy agreement entered into between the Landlord and Tenants does not include the Occupants. (Doc 5299799)
5. However, that is not end of the analysis. Section 202 (1) of the Act obligates the Board to ascertain the true substance of transactions, activities and the good faith of the parties when making findings on an application.
6. Both Occupants testified at the hearing. Their testimony was consistent in that they only attended live in the rental unit until March 2025 and executed Guarantor agreements with the Landlord. (Doc 5299790 and Doc 5299792).
7. The Occupants told the Board that the Tenants missed their rent payment for December 2025. As the result the Landlord came over frustrated and demanded the Occupants provide a Pre-Authorized Debit (PAD) form. The Occupants paid \$500.00 each to the Landlord for months of January and February 2025.
8. The Occupants vacated the unit in March 2025.

Analysis

9. The Landlord's leasing agent, Ali Gia, testified that Occupants were initially offered the opportunity to be tenants but chose instead to act as guarantors while other individuals would be the leaseholders.
10. While it is unusual for guarantors to reside in a rental unit, I find that this fact alone does not make the Occupants tenants. I further find the parties' relationship was clearly defined at the outset as guarantor and occupant. Nothing that happened during the time the Occupants resided in the rental unit changed their relationship.
11. Emails sent by the Landlord state that notices of entry were provided only to the leaseholders and that it was the leaseholders' responsibility to notify subtenants or occupants. (Doc 582122 pg. 33-34). I find this This supports the conclusion that the Landlord did not consider them to be tenants.
12. I accept the evidence that Occupants paid \$500.00 per month to the Tenants and later paid \$500.00 directly to the Landlord. However, the fact that a landlord accepts payment from an occupant does not, on its own, create a tenancy.
13. I further accept the Occupants evidence that they only provided the Landlord PAD form after the Landlord showed up the rental unit unannounced and were fearful of the Landlord. I find the Occupants paid the Landlord of fear and did not have mutual intention to convert their occupancy into a tenancy.

14. There is no dispute that the Occupants have filed a Tenant's application against the Landlord. Again, I do not find this makes them tenants. I accept their evidence that they have done this as a misunderstanding of their relationship with the Landlord rather than intention to create a tenancy with the Landlord. Similarly, I find the fact the Occupants sent the Landlord an N11 agreement was done as a misunderstanding rather than a genuine desire to enter to a tenancy with the Landlord.
15. Based on the evidence in its totality, I find on a balance of probabilities that KR and SR were occupants and guarantors, not tenants.
16. The Ontario Court of Appeal confirmed in *Kar v Chung* that the Act does not apply to guarantors. Accordingly, the Board does not have jurisdiction over guarantors. Therefore, the Landlord's claim against the Occupants is dismissed.

L9 Application

17. With respect to the Tenants, the evidence of the Landlord's witnesses and the Occupants suggests the Tenants belongings remained in rental unit after the Occupants vacated the rental unit in March 2025. I find the Tenants were in possession of the rental unit on the date the application was filed.
18. The Landlord's property manager testified that they discovered the Tenants abandoned the rental unit when they entered the rental unit on April 5, 2025.
19. Section 88(1) of the Act provides that where a tenant vacates the rental unit without proper notice, the tenant remains liable for rent until the earliest termination date that could have been specified had proper notice been given.
20. Because the tenancy was a fixed-term tenancy ending August 31, 2025, that is the earliest termination date the Tenants could have specified.
21. In this case the Tenants had a fixed term tenancy that ended August 31, 2025. This is the earliest date the Tenants could have given notice to terminate the tenancy. Therefore they are liable for rent arrears until that date.
22. I accept the Landlord's evidence that reasonable steps were taken to mitigate losses by actively marketing and showing the rental unit.
23. Accordingly, I find that the Tenants are liable for rent arrears and compensation up to August 31, 2025.
24. The rent arrears and daily compensation owing to August 31, 2025, are \$23,575.00.
25. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

It is ordered that:

1. The Tenants shall pay to the Landlord \$23,761.00. This amount includes rent arrears owing up to August 31, 2025, and the cost of the application.

2. If the Tenants do not pay the Landlord the full amount owing on or before March 7, 2026, the Tenant will start to owe interest. This will be simple interest calculated from March 8, 2026 at 4.00% annually on the balance outstanding.

February 24, 2026

Date Issued

Bryan Delorenzi

Member, Landlord and Tenant 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.