



Order under Section 79 Residential Tenancies Act, 2006

Citation: Fido v Tran, 2026 ONLTB 34113

Date: 2026-04-28

File Number: LTB-L-012100-26

In the matter of: G7, 20 PALACE ST
KITCHENER ON N2E0J3

Between: Zbigniew Fido Landlord

And

Khang An Tran Tenant

Zbigniew Fido (the 'Landlord') applied for an order to terminate the tenancy and evict Khang An Tran (the 'Tenant') because:

- the Landlord believes that the Tenant abandoned the unit.

This application was heard by videoconference on March 10, 2026 at 1:33 p.m.

Only the Landlord Zbigniew Fido attended the hearing.

As of 1:33 p.m., 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. This application asks that the Board determine the Tenant has abandoned the rental unit and issue an order terminating the tenancy on that basis. Based on the uncontested evidence before me, I do not find the Tenant abandoned the unit. Below are my reasons.
2. The Landlord served the Tenant with an N4 notice of termination on February 3, 2026 with a termination date of February 17, 2026 alleging the Tenant was \$2,100.00 in arrears.
3. The Landlord testified that on February 11, 2026, the Tenant advised they had secured alternative accommodation, and on February 21, 2026 the Tenant further advised that their belongings would be removed by February 23, 2026, and that the keys would be left in the rental unit.

4. The evidence shows that the Tenant removed most of their belongings on or about February 22, 2026. Some items, including a sofa and mattress, remained in the unit thereafter.
5. The Landlord further testified that the Tenant ceased communication with the Landlord. Entered into evidence was correspondence between the parties showing one way communication from the Landlord to the Tenant dated February 28, 2026 with no response from the Tenant.
6. As of March 1, 2026 the remaining items had not been removed. The Landlord inspected the unit and provided documentary evidence showing the unit was in an unclean condition, including the presence of garbage and animal feces.

Analysis

7. The Board's Interpretation Guideline 4: "Abandonment of a Rental Unit" explains the concept of abandonment as follows:

Abandonment is a unilateral act by the tenant to relinquish their tenancy and give up possession of the rental unit without properly giving notice of the termination to the landlord. If the landlord is not sure whether or not a rental unit has been abandoned, they may file an application for determination of this issue with the Board;

Section 2(3) of the RTA provides that a rental unit is not considered abandoned where the tenant is not in arrears of rent. Even if there is evidence of abandonment, such as the furniture being removed, the landlord cannot treat the unit as abandoned before the end of the rental period if the rent is fully paid.

8. While the Landlord submits that the Tenant abandoned the rental unit, the evidence does not support this characterization. At the time the Tenant vacated the unit, a valid Notice to End a Tenancy for Non-payment of Rent (Form N4) was in effect, served on February 3 2026, with a termination date of February 17, 2026.
9. Subsection 37(2) of *the Residential Tenancies Act* (2006) ('the Act') states:

37(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.

10. Given all of the above, I am not satisfied that the Tenant has abandoned their tenancy. The timing of the Tenant's departure closely corresponds with the termination date set out in the notice and the presence of remaining personal property in the unit is not, in these circumstances, sufficient to establish abandonment. The evidence as a whole supports a finding that the Tenant vacated the unit response to the N4 notice, rather than abandoning the tenancy.
11. As a result, the Landlords' application for termination of the tenancy on the ground of abandonment must be dismissed.

12. This order contains all of the reasons for my decision within it. No further reasons shall be issued.

It is ordered that:

1. The Landlord's application is dismissed.

April 28, 2026

Date Issued

Greg Witt

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.