



**Order under Section 135  
Residential Tenancies Act, 2006**

**File Number:** LTB-T-072150-25

**In the matter of:** 401, 3967 LAWRENCE AVE E  
SCARBOROUGH ON M1G1S2

**Between:** Ahilya Boodhoo Tenant

**And**

Mohammed Asher Landlord  
Signet Group Inc

Ahilya Boodhoo (the 'Tenant') applied for an order determining that Mohammed Asher and Signet Group Inc (the 'Landlord') collected or retained money illegally.

This application was heard by videoconference on January 6, 2026.

The Landlord's legal representative, Matt Anderson, the Tenant, and the Tenant's agent, Vidya Singh, attended the hearing.

**Determinations:**

1. The Tenant alleged that the Landlord collected rent in excess of the amount allowed by the *Residential Tenancies Act, 2006* (the 'Act').
2. It was not disputed that the monthly rent had been increased by an amount that exceeds the amount permitted by the Rent Increase Guidelines.
3. The rent increase was a result of two applications filed by the Landlord for rent increase above the guidelines (AGI Applications), order LTB-L-077456-22 (TEL-04113-19) issued on March 8, 2023 and order LTB-L-078653-22 (TEL-09944-20) issued on July 22, 2024.
4. The Tenant alleged that the Landlord increased the monthly rent over and above what was set out in the two AGI orders, and as such, collected rent in excess of the amount allowed by the Act.

**Landlord's Motion to Dismiss:**

5. At the hearing the Landlord's representative made a motion to dismiss the Tenant's application, because the issue of the lawful rent was determined in a previous application

filed by the Landlord to terminate the Tenant's tenancy for nonpayment of rent, LTB-L-101337-24.

6. The application to terminate the tenancy for non-payment of rent LTB-L-101337-24 was heard by the LTB on July 2, 2025. At that hearing, the Tenant disputed the monthly rent and challenged the Landlord's rent increases pursuant to the AGIs.
7. The LTB heard evidence from both parties about the lawful rent and on July 24, 2025, issued order LTB-L-101337-24 determining that the rent charged by the Landlord was the lawful monthly rent.
8. On August 2, 2025, the Tenant filed a request to review order LTB-L-101337-24 issued on July 24, 2025. The request to review was denied by order LTB-L-101337-24-RV issued on August 11, 2025. Order LTB-L-101337-24-RV confirmed the original order LTB-L-101337-24 issued on July 24, 2025 and determined that the Tenant had a full opportunity to participate in the proceedings and that there was no serious error in the order or the proceedings.
9. On August 14, 2025 the Tenant filed this application alleging that the Landlord charged illegal rent.
10. The Landlord's position is that the Tenant is estopped from raising the issue of lawful rent because it had been previously decided by the LTB.

#### Issue Estoppel:

11. Issue estoppel is a branch of the doctrine of res judicata, a legal principle which prevents an applicant from bringing the same case twice.
12. The doctrines of estoppel and res judicata promote fairness and integrity in the justice system by ensuring finality of decisions. The test for issue estoppel was set out by the Supreme Court in *Angle v. Minister of National Revenue*, 1974 CanLII 168 (SCC), [1975] 2 S.C.R. 248 at p. 254:
  - (1) that the same question has been decided;
  - (2) that the judicial decision which is said to create the estoppel was final; and,
  - (3) that the parties to the judicial decision or their privies were the same persons as the parties to the proceedings in which the estoppel is raised.
13. The Supreme Court of Canada has explained the importance of issue estoppel in our legal system:

The law rightly seeks a finality to litigation. To advance that objective, it requires litigants to put their best foot forward to establish the truth of their allegations when first called upon to do so. A litigant, to use the vernacular, is only entitled to one bite at the cherry. The appellant [...] lost. An issue, once decided, should not generally be re-litigated to the benefit of the losing party and the harassment of the winner. A person should only be vexed once in the same cause. Duplicative litigation, potential inconsistent results, undue

costs, and inconclusive proceedings are to be avoided (*Danyluk v. Ainsworth Technologies Inc.*, 2001 SCC 44 (CanLII), [2001] 2 SCR 460 (“*Danyluk*”) at para. 18).

14. In *Danyluk*, the Court confirmed that the doctrine of issue estoppel applies to administrative tribunals.

15. At para. 33 of *Danyluk*, Binnie, J., who gave the judgment for the Court, stated that issue estoppel involves a two-step analysis:

The rules governing issue estoppel should not be mechanically applied. The underlying purpose is to balance the public interest in the finality of litigation with the public interest in ensuring that justice is done on the facts of a particular case. (There are corresponding private interests.) The first step is to determine whether the moving party (in this case the respondent) has established the preconditions to the operation of issue estoppel set out by Dickson J. in *Angle*, supra. If successful, the court must still determine whether, as a matter of discretion, issue estoppel ought to be applied.

16. The Supreme Court of Canada explained the scope of the residual discretion in *Penner v. Niagara (Regional Police Services Board)*, 2013 SCC 19 (CanLII), [2013] 2 SCR 125. The Court held that there are two circumstances in which residual discretion should be exercised.

17. First, residual discretion should be exercised if the prior proceeding was not fair (*Penner* at paras. 40-41). In the present case, there is no evidence that the LTB-L-101337-24 proceeding was unfair. The proceeding was governed by the Act and the *Statutory Powers Procedure Act*. The Tenant participated in the proceedings and had the opportunity to present sufficient evidence to prove her case; she failed to do so. She then filed a request to review, which was denied. She also had a right of appeal.

18. The Court explained the second circumstance as follows:

even if the prior proceeding was conducted fairly and properly having regard to its purpose, injustice may arise from using the results to preclude the subsequent proceedings. This may occur, for example, where there is a significant difference between the purposes, processes or stakes involved in the two proceedings. We recognize that there will always be differences in purpose, process and stakes between administrative and court proceedings. In order to establish unfairness in the second sense we have described, such differences must be significant and assessed in light of this Court’s recognition that finality is an objective that is also important in the administrative law context. [...] if courts routinely declined to apply issue estoppel because the procedural protections in the administrative proceedings do not match those available in the courts, issue estoppel would become the exception rather than the rule (*Penner* at para. 42).

19. In other words, residual discretion may arise when an issue was decided in a prior proceeding under a different legislative framework with significantly lower stakes, different purposes, or fewer procedural protections. In those circumstances, the parties may be permitted to re-litigate the issue in the higher-stakes proceeding.

20. The present case, however, is not one in which residual discretion should be exercised. The LTB-L-101337-24 proceeding was brought under the same legislative framework, as the present one. It was heard by the same Board, had the same issues, and the same procedural protections. There is no reason that the LTB-L-101337-24 decision should not be binding on the parties in this proceeding.
21. The Court in *Penner* was also clear that residual discretion should not be used to “sanction collateral attack” on a prior decision. The Court stated that administrative tribunals’ decisions must be treated with respect (para. 31).
22. In conclusion, the LTB already determined the lawful monthly rent in LTB-L-101337-24 issued on July 24, 2025, and the Tenant was not successful in her request to review. Although the Tenant may disagree with the Board’s findings in orders LTB-L-101337-24 and LTB-L-101337-24-RV, the decision with respect to the monthly rent was final, the parties to the application are the same as in the Landlord’s application, the same issue has been raised and determined in the Landlord’s application, and the conditions for residual discretion have not been met.
23. Therefore, the preconditions for issue estoppel are present.
24. Given my finding that the Tenant is trying to prove the same facts that she failed to prove in LTB-L-101337-24, this application constitutes a collateral attack on the LTB-L-101337-24 decision.
25. The Landlord’s motion is granted. The Tenant’s application shall be dismissed.

**It is ordered that:**

1. The Tenant’s application is dismissed.

**January 16, 2026**  
**Date Issued**

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Jana Rozehnal  
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.