



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

**Citation:** Prescod v Killing, 2026 ONLTB 6777

**Date:** 2026-01-23

**File Number:** LTB-T-060880-25

**In the matter of:** 218 SNOWDROP CRES  
KITCHENER ON N2E4C2

**Between:** Aliesha Prescod Tenant  
Joshua East

**And**

Kyle Killing Landlord

When the capitalized word “Landlord” is used in this order, it refers to all persons or companies identified as a Landlord at the top of the order. When the capitalized word “Tenant” is used in this order, it refers to all persons identified as a Tenant at the top of the order.

Aliesha Prescod and Joshua East (the 'Tenant') applied for an order determining that Kyle Killing (the 'Landlord') collected or retained money illegally.

This application was heard by videoconference on January 8, 2026.

Only the Tenants attended the hearing.

As of 9:28 a.m., the Landlord 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 Tenants' evidence.

### **Determinations:**

1. As explained below, the Tenant proved the allegations contained in the application on a balance of probabilities. Therefore, the Landlord must pay the Tenants \$1,648.00. This amount representing \$1,600.00 for the illegal charge retained and \$48.00 for the cost of filing the application.

### *Background*

2. The Tenants moved into the rental unit on or about June 29, 2017, and vacated on June 28, 2025 pursuant to an agreement (DOC-6068333) as reached with the Landlord.

3. The agreement as signed by the parties was in part to resolve the Tenants' allegations that the Landlord collected an illegal rent increase of an additional \$600.00 per month commencing in July 2024, this resulting in an overpayment.
4. While the Tenants had filed a prior T1 application with the Board in LTB-T-031366-25, because of the private settlement reached, the Tenant's withdrew their application.

*The application*

5. Upon moving out, pursuant to the terms of the agreement as signed by the parties on April 28, 2025, in paragraph #6 and 7 it is outlined that:

*6. Final Inspection and Release of Held Amount*

*6.1. An amount equivalent to one (1) month's rent, namely One Thousand Six Hundred Dollars*

*(\$1,600.00), shall be held in trust by the Landlord pending the completion of a final inspection.*

*6.2. The final inspection shall occur at the time the Tenants vacate the Premises, no later than June 30, 2025.*

*6.3. Provided that:*

*(a) The Premises is returned in good condition, subject to reasonable wear and tear; and*

*(b) All keys, fobs, and access devices are returned to the Landlord, then the Landlord shall remit the balance of \$1,600.00 to the Tenants within forty-eight (48) hours of the final inspection.*

*7. Failure to Vacate*

*7.1. Should the Tenants fail to vacate the Premises by 11:59 PM on June 30, 2025, they agree that the Landlord shall retain the \$1,600.00 final balance as liquidated damages, without prejudice to the Landlord's right to commence eviction proceedings or claim further damages.*

6. The Tenants submitted that they moved out prior to June 30, 2025, in accordance with the agreement, however that the Landlord has withheld \$1,600.00 of the \$7,600.00 total settlement suggesting that this was done because the carpets had an odour, that there was an issue with a window latch(s) and there were some other minor deficiencies identified by the Landlord.
7. In a letter dated July 7, 2025, the Tenants wrote the Landlord seeking his cooperation in the return of the \$1,600.00 and in which they outlined that withholding money as security deposit is unlawful.

8. At the end, the Landlord refused to return the Tenants the amount of \$1,600.00 as claimed and the Tenants filed their application with the LTB on July 24, 2025.

*Analysis*

9. In paragraph # 2 of the agreement as reached between the parties', it is outlined that:

*2. Rent Arrears and Last Month's Rent*

*2.1. The Tenants acknowledge and agree that their previously paid Last Month's Rent deposit shall be forfeited to the Landlord as partial satisfaction of arrears accumulated from unpaid rental amounts dating back to 2018.*

***Emphasis added...***

*2.2. Details of the missed rental payments and arrears are attached hereto as Appendix A: Statement of Arrears, which forms an integral part of this Agreement.*

*2.3. The Parties agree that each page of Appendix A shall be initialed by all Parties as acknowledgment of its accuracy and inclusion in this Agreement.*

10. Based on the uncontested evidence before me, the Tenants moved out June 28, 2025 per the agreement to terminate the tenancy on June 30, 2025. The terms as outlined in paragraph #2 are contrary to section 106(10) of the Act, where it is outlined that

*(10) A landlord shall apply a rent deposit that a tenant has paid to the landlord or to a former landlord in payment of the rent for the last rent period before the tenancy terminates.*

11. In this case, the last month of the tenancy was June 1 to June 30, 2025, but the Tenants had already paid the rent for that period as \$3,200.00 (\$1,600.00 x2) of the settlement agreement total of \$7,600.00 was allocated to May and June 2025 rent.
12. I find that the Landlord failed to pay the Tenants their last month's rent deposit, as required by the Residential Tenancies Act, 2006 (the 'Act'). The Landlord retained the Tenants' last month's rent deposit suggesting that it was "forfeited" and applied towards past rental arrears. This is prohibited by section 106(10) of the Act which states that a rent deposit can only be used to pay the rent owing for the last month of the tenancy.
13. Furthermore, subsection 105(1) of the Act outlines that the only security deposit that a landlord may collect is a rent deposit collected in accordance with section 106.
14. Where a landlord alleges damages to a rental unit as against a former tenant, they may file an application with the Board for determination.
15. Therefore, the Landlord will be ordered to return the rent deposit to the Tenants.
16. This order contains all of the reasons for the decision within it. No further reasons shall be issued.

**It is ordered that:**

1. The total amount the Landlord, shall pay the Tenant is \$1,648.00. This amount represents:
  - \$1,600.00 for the illegal charge retained.
  - \$48.00 for the cost of filing the application.
2. The Landlord shall pay the Tenant the full amount owing by February 3, 2026.
3. If the Landlord does not pay the Tenant the full amount owing by February 3, 2026, the Landlord will owe interest. This will be simple interest calculated from February 4, 2026 at 4.00% annually on the balance outstanding.

**January 23, 2026**  
**Date Issued**

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Alicia Johnson  
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.