



Order under Section 135 Residential Tenancies Act, 2006

Citation: Emrich v Mayer, 2026 ONLTB 6922

Date: 2026-01-21

File Number: LTB-T-102446-24 and LTB-T-102452-24

In the matter of: 10 WROXETER AVE
TORONTO ON M4K1J6

Between: Richard Emrich

Tenant

And

Simone Mayer
Laurie Goodman

Landlord

Richard Emrich (the 'Tenant') applied for an order determining that Simone Mayer and Laurie Goodman (the 'Landlord') collected or retained money illegally (LTB-T-102446-24) and the substantially interfered with my reasonable enjoyment of the rental unit or complex or with the reasonable enjoyment of a member of my household (LTB-T-102452-24).

This application was heard by videoconference on June 25, 2025.

The Landlord, Simone Mayer, the Landlord's Representative, Barrington Lue Sang and the Tenant attended the hearing.

The member who presided at the hearing is on leave. The Associate Chair of the Landlord and Tenant Board has determined that the Member who heard the application is unable to issue a decision in this matter. The matter has therefore been reassigned to me on the Associate Chair's own initiative under the authority of subsection 4.4(1) of the *Statutory Powers Procedure Act*. As the reassigned adjudicator, I have reviewed the evidence and submissions provided by the parties during the hearing held on the date noted above and have listened to the hearing recording. I am satisfied that I am able to make a decision based on the existing evidentiary record as permitted by subsection 4.4(6) of the *Statutory Powers Procedure Act*. Therefore, a new hearing was not held.

Preliminary Issue:

1. The parties requested the Tenant's T2 Application LTB-T-102452-24 be heard together with T1 Application LTB-T-102336-24. The requested was granted.

Determinations:

2. As explained below, the Tenant proved the allegations contained in the application on a balance of probabilities. Therefore, the Landlord must pay the Tenant \$1,769.25 which represent money retained unlawfully and an abatement of rent related to parking.

LTB-T-102446-24 - Illegal rent collected

3. The Landlord sent an email dated October 17, 2023, to the Tenant that rent would increase by 2.5% and would be effective January 16, 2024. The Tenant agreed and paid the rent increase for 11 months from January 16, 2024 to December 15, 2024. The Tenant filed their application on December 12, 2024 because the Tenant did not receive a Notice of lawful rent increase (NORI) in accordance with the Act.
4. Section 110 of the Act states, "No landlord shall increase the rent charged to a tenant for a rental unit, except in accordance with this Part."
5. Section 116(1) of the Act makes it mandatory that a landlord shall not increase the rent charged to a tenant without first giving the tenant at least 90 days written notice of the landlord's intention to do so.
6. Section 116(3) of the Act states, "The Notice shall be in a form approved by the Board and shall set out the landlord's intention to increase the rent and the amount of the new rent."
7. Section 116(4) of the Act states, an increase in rent is void if the landlord has not given the notice required by this section, and the landlord must give a new notice before the landlord can take the increase".
8. Section 135.1 of the Act states, "An increase in rent that would otherwise be void under subsection 116(4) is deemed not to be void if the tenant has paid the increased rent in respect of each rental period for at least 12 consecutive months".
9. I find the Landlord collected rent in excess of the amount allowed by the *Residential Tenancies Act, 2006* (the 'Act') because the Landlord did not issue a NORI in accordance with the section 116(4), and the Tenant has only paid the unlawful rent increase for 11 months before he made an application contesting the validity of the rent increase. As such, the unlawful rent increase by email communication is void.
10. I considered the Landlord's argument that the email caused no confusion because it gave 90-day notice before the effective date the increase started, identifies a 2.5% increase and the tenancy agreement allows for notices to be given by email. Although email was an approved method of giving notice and documents as per their tenancy agreements, the email alone doesn't substitute or meet the requirements of a legal notice under section 116(3) of the Act. The purpose of a Board approved form is to clearly explain the reason for the notice, lists the requirement, timelines, explains the tenant's rights and prevents misleading or incomplete notices. In this case the email was incomplete, and did give any information about the tenant's rights, therefore it can't be said that the email substantially complies with a legal notice under section 212 of the Act.

11. The Tenant's rent charge changed on January 16, 2024, from \$5,350.00 to \$5,483.75 which the Tenant paid from January 16, 2024 to December 15, 2024 rent periods. The Landlord owes the Tenant, \$1,471.25 calculated as follows: $\$5,483.75 - \$5,350.00 = \$133.75 \times 11 \text{ months}$.

LTB-T-102452-24 – Substantial Interference

Utility:

12. The Tenant withdrew his claim about substantial interference related to utility costs at the hearing and therefore this portion of the application was not considered.

Parking:

13. The Tenant argues that he had exclusive use of the rear parking area as supported by the clause in the tenancy agreement and the Landlord unilaterally rented a portion of the rear parking area to the basement tenant around September 3, 2024 to April 15, 2025 which is date the Tenant vacated. The Landlord disagrees, arguing the MLS listing shows one parking spot and the tenancy agreement strikes off the clause under the "Parking" section, that it included 2 car parking in the rear. The Landlord also suggested there was a material change in the space after the Landlord removed the fence sometime between June 19-27, 2024, which allowed space to configure a second parking space.
14. I find the real substance of the transaction was the rear area used for parking, where a garage pre-existed, was a facility that was part of the rental unit which the Tenant paid rent for the right to occupy. When the Landlord unilaterally decided to change the rear designated parking area from "exclusive use" to "shared use" the Landlord substantially interfered with the Tenant's rights. The tenancy agreement replaces "~~two spots in rear included~~" with 'exclusive use of rear parking'. Whether the tenancy included one or two parking spots in my view is irrelevant because it was clear between the parties that the space was for the Tenant's own use. The Landlord's Agent's email dated December 7, 2022, at 12:41 pm to the Tenant also provides context and gives insight about the party's agreement and intention when they replaced the wording in the tenancy agreement from "two spots in rear included" to "exclusive use of rear parking". She writes the Tenant explaining, "Parking spaces - 'two car parking' to be included concerns them. They don't want to be held accountable in case his two cars don't fit. They would like to say parking (or 1 spot) and then if can or wants to fit two there he can but not have it be stated that it's a 2 car lot."
15. There was clear communication between the Landlord's Agent and the Tenant before the tenancy started that the garage was going to be demolished, and that space would be used by the Tenant whether he choose to park 1 or 2 vehicles was discretionary. There was no discussion that the rear parking area would be shared, divided or changed from one parking spot to two parking spots. In fact, the Landlord stated at the hearing she had concern because they were not sure whether two vehicles could park in the rear parking area. I considered the Landlord's testimony that the parking area increased after the fence was removed but the gained space is not material since the fence was four inches and

previously located right next to the neighbour's garage. As such, the Landlord suggesting its new added space that now allowed two parking spaces is not reasonable.

16. The definition of rent in section 2(1) of the Act includes any amount paid for services and facilities provided by the Landlord. Since parking is a facility and it was included as part of the rent charge, the Landlord cannot unilaterally change the terms of the tenancy agreement and rent out part of a space that the Tenant pays rent for the right to occupy. In doing so, the picnic table that pre-existed in that area, as supported by the photograph, was removed so the basement tenant could park their vehicle. The Tenant's had intention of putting a bike shed, used the space for guest parking and also used that space as part of their backyard to socialize up until the Landlord took that space away. The Tenant also testified this was a source of conflict between the Tenant and basement tenant during the winter months because of snow removal responsibility. The impact reaches the threshold of substantial interference.
17. Despite my findings, I acknowledge that the Landlord can discontinue or reduce parking given to the Tenant. In such cases, a landlord must also reduce a tenant's rent accordingly based on reasonable replacement costs of the lost facility. In this case, the application before the Board was not made under section 130 of the Act, therefore a reduction of rent has not been considered.
18. However, since the Landlord has substantially interfered with the Tenant's rights and reasonable enjoyment of the residential complex, an abatement of rent of \$250.00 as requested by the Tenant in his application is reasonable because of the Landlord's conduct and impact to the Tenant for the lost use of that space. This equates to \$31.25 each month for approximately 8 months from September 2024 to April 2025.
19. The Landlord's Representative indicated that the remedy should be restricted starting from the date the application was filed but I disagree. I find the Landlord knew about this issue, immediately after the Landlord gave this space to the basement tenant and certainly from September 4, 2024 when the Tenant wrote to the Landlord learning about the new basement tenant and their use of the parking area.

It is ordered that:

1. The total amount the Landlord shall pay the Tenant is \$1,769.25. This amount represents:
 - \$1,471.25 for excess rent collected.
 - \$250.00 abatement for substantial interference related to lost use of space in the backyard/rear parking.
 - \$48.00 for the cost of filing the application.
2. The Landlord shall pay the Tenant the full amount owing by February 1, 2026.
3. If the Landlord does not pay the Tenant the full amount owing by February 1, 2026, the Landlord will owe interest. This will be simple interest calculated from February 2, 2026 at 4.00% annually on the balance outstanding.

4. The Tenant has the right, at any time, to collect the full amount owing or any balance outstanding under this order.

January 21, 2026

Date Issued

Sandra Macchione

Vice Chair, Landlord and Tenant Board

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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.