



Order under Section 135 Residential Tenancies Act, 2006

Citation: Cai v Wang, 2026 ONLTB 9215

Date: 2026-02-04

File Number: LTB-T-049275-25

In the matter of: PH07, 8323 KENNEDY RD
UNIONVILLE ON L3R5W7

Between: Ling Cai Tenant

And

Xiaoyu Wang Landlord

Ling Cai (the 'Tenant') applied for an order determining that Xiaoyu Wang (the 'Landlord') collected or retained money illegally.

This application was heard by videoconference on January 20, 2026.

The Tenant and the Landlord attended the hearing. The Tenant was represented by Yun Tao. The Landlord was represented by Jinxing Wang. D. Li acted as an interpreter for the Landlord.

Determinations:

1. This application is about a tenancy where the Tenant pre-paid the rent for a year and provided a key deposit. The Tenant moved out prior to the end of the one-year lease term and seeks the return of excess monies paid.
2. For the reasons that follow, we are satisfied the Tenant is entitled to the return of some excess rent paid. The Landlord is ordered to pay to the Tenant \$4,752.33 for excess rent paid and interest on the last month's rent deposit.
3. There is no dispute between the parties that:
 - 1) The tenancy agreement was for a fixed term one-year tenancy for the period August 12, 2024, to August 11, 2025. The rent charged was based on a monthly amount of \$2,950.00.
 - 2) The Tenant paid first and last month's rent in the amount of \$5,900.00 on July 24, 2024.

- 3) The Tenant also paid an additional ten months' worth of pre-paid rent in the amount of \$29,500.00 on August 13, 2024 (which was received by the Landlord on August 16, 2024).
- 4) The Landlord did not permit the Tenant to move into the rental unit until August 16, 2024.
- 5) At some point in time the Tenant informed the Landlord that the Tenant wanted to vacate the rental unit prior to the end of the lease term.
- 6) The Tenant returned vacant possession to the Landlord on June 13, 2025, by returning the keys to the Landlord. The key deposit in the amount of \$400.00 was then returned to the Tenant.
- 7) The Landlord found a new Tenant and the tenancy started on June 28, 2025.

Is the Tenant entitled to the return of rent paid for the period August 12 to August 15, 2024?

4. We are satisfied that the Tenant is entitled to the return of rent paid for the period August 12, 2024, to August 15, 2024, for the following reasons. The Landlord was not entitled to the rent collected for that period because the Landlord refused to give the Tenant vacant possession.
5. Section 13 of the *Residential Tenancies Act, 2006* (the 'Act') says:
 - 13 (1) The term or period of a tenancy begins on the day the tenant is entitled to occupy the rental unit under the tenancy agreement.
 - (2) A tenancy agreement takes effect when the tenant is entitled to occupy the rental unit, whether or not the tenant actually occupies it.
6. This means that the tenancy agreement began on August 12, 2024, as agreed whether or not the Tenant paid any monies to the Landlord or not. That would be true if the monies unpaid were the last month's rent deposit, or the first month's rent, or the pre-paid rent agreed to.
7. We would also observe that s. 3 of the Act states that a landlord and tenant cannot contract out of the Act. So, any agreement in the lease that the Tenant was not entitled to vacant possession until the pre-paid rent was paid is unenforceable and of no force or effect.
8. As the Landlord refused to permit the Tenant to move into the unit until August 16, 2024, the Landlord was not entitled to the rent paid for the period August 12 to August 15, 2024, and the Landlord is improperly retaining it. The amount owing is calculated as $\$2,950.00 \times 12 \text{ months/year} \div 365 \text{ days/year} \times 4 \text{ days} = \387.95 .

Is additional rent paid due back to the Tenant for the period after June 28, 2025?

9. Initially the Tenant took the position that the rent paid for the period after the keys were returned on June 13, 2025 should be ordered back to the Tenant, but prior to the hearing, they agreed that the period under examination starts June 28, 2025.
10. We agree that the Tenant is entitled to the return of excess rent paid for the period commencing June 28, 2025.
11. In essence, the Tenant gave an invalid notice to terminate and was liable for the rent to the end of the lease subject to the Landlord's duty to mitigate pursuant to s. 88. Pursuant to s. 88(3) in these circumstances, if the landlord enters into a new tenancy agreement with a new tenant with respect to the rental unit, the tenant who abandoned or vacated the rental unit is not liable to pay rent that exceeds the amount of rent owing for the period that ends on the date the new tenant is entitled to occupy the rental unit. As a new tenant was entitled to possession June 28, 2025, the Landlord was only entitled to rent from the Tenant for the period up to June 27, 2025.
12. That means the Landlord was not entitled to any of the rent collected for the 45 days in the period June 28, 2025, to August 11, 2025, inclusive. We calculate this amount to be \$4,364.38.
13. The Landlord argues that the Landlord should be entitled to deduct from this amount owing one month's rent because the Landlord had to retain the services of a professional realtor to find the new tenant for the rental unit.
14. Pursuant to s. 134(1.1) of the Act a landlord is not permitted to collect from a former tenant any rent for the period after the tenant has vacated and the tenancy has terminated. Exceptions to s. 134 are set out in s. 17 of O.Reg. 516/06. One of the exceptions is where a landlord and a tenant have agreed that a landlord can collect money as a result of a settlement agreement for a potential application or action. Here, there is no evidence that the Tenant agreed to pay the Landlord's cost of retaining a realtor. As a result, we believe the one month's rent fee the Landlord wants to charge the Tenant is barred by s. 134.
15. Therefore, the Tenant is entitled to an order requiring the Landlord to pay \$4,364.38.

Is the Tenant entitled to interest on the deposit and if so, how much?

16. The Tenant seeks interest on the four days' worth of rent paid for the period August 12, 2024 to August 15, 2024, as well as interest on the last month's rent deposit paid.
17. With respect to interest on the four days' worth of rent the Tenant paid, the Tenant is not entitled to interest. We say this because the Board has no jurisdiction to order pre-judgement interest. The Tenant is asking for interest on the four days' rent for the period from when it was paid up to the hearing before the Board. That is pre-judgement interest. Pursuant to s. 207(7) of the Act the Board has the power to order post-judgement interest. Without a similar provision for pre-judgement interest, it is beyond the Board's jurisdiction.
18. The exception to that conclusion is with respect to interest on the last month's rent deposit. That is because s. 106 of the Act specifically sets out that interest is due annually on the deposit paid by the Tenant at the guideline rate.

19. The Tenant paid a last month's rent deposit of \$2,950.00 on July 24, 2024.
20. Pursuant to s. 106(10) the last month's rent deposit must be applied to the rent due for the last month of the tenancy.
21. The last month of the tenancy here started June 12, 2025, so the Tenant is entitled to interest on the deposit up to June 11, 2025, inclusive.
22. Therefore, interest on the last month's rent deposit is calculated for the period July 24, 2024, to June 11, 2025 as follows: $2.5\% \times \$2,095.00 \div 365 \text{ days/year} \times 323 \text{ days} = \65.26 . The Landlord shall be ordered to pay this amount to the Tenant.
23. No claim was made for interest on the pre-paid rent, so no order shall issue with respect to it.
24. The Tenant paid \$48.00 for filing the application and is entitled to reimbursement of that fee.
25. The total amount the Landlord owes the Tenant under this order is \$4,865.59.
26. 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 \$4,865.59. This amount represents:
 - \$4,752.33 for excess rent charged;
 - \$65.26 for interest on the last month's rent deposit; and
 - \$48.00 for the cost of filing the application.
2. The Landlord shall pay the Tenant the full amount owing by February 15, 2026.
3. If the Landlord does not pay the Tenant the full amount owing by February 15, 2026, the Landlord will owe interest. This will be simple interest calculated from February 16, 2026 at 4.00% annually on the balance outstanding.

February 4, 2026

Date Issued

Rosemarie Ortiz
Member, Landlord and Tenant Board

Lisa Del Vecchio
Member, 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.