



Order under Section 21.2 of the Statutory Powers Procedure Act and the Residential Tenancies Act, 2006

File Number: LTB-L-037739-25-RV

In the matter of: 723, 310 Dundas Street East
Toronto Ontario M5A3Z8

Between: Toronto Seniors Housing Corporation Landlord

And

Trung Nghia Trinh Tenant

And

Thi Ha Pham Unauthorized Occupant

Review Order

Toronto Seniors Housing Corporation (the 'Landlord') applied for an order to terminate the tenancy of Trung Nghia Trinh (the 'Tenant') and evict Thi Ha Pham (the 'Unauthorized Occupant') because the Tenant transferred occupancy of the rental unit to the Unauthorized Occupant without the Landlord's consent. The Landlord also applied for compensation by the unauthorized Occupant for the use of the rental unit.

This application was resolved by order LTB-L-037739-25 issued on December 12, 2025.

On December 18, 2025, the requested a review of the order and that the portion of the order that relates to compensation be stayed until the request to review the order is resolved.

On December 18, 2025 interim order LTB-L-037739-25-RV-IN was issued, staying the order issued on December 12, 2025.

This review request was heard by videoconference on January 15, 2026.

The Tenant, the Tenant's representative An Le and the Landlord's representative Adam Fraccaro attended the hearing.

Determinations:

Review request

1. The Landlord requested a review of order LTB-L-037739-25 issued on December 12, 2025 (the "Order") on the basis of serious error.

2. By way of background, the hearing member determined there was an unauthorized transfer of occupancy and an award for use and compensation of the rental unit was made in favour of the Landlord, based upon the RGI monthly rent figure of \$559.00.
3. The Landlord submits there was a serious error in the Order, as the compensation for the use of the unit should have been calculated based upon the market value rate of \$1,427.00/month as opposed to the RGI rental rate of \$559.00/month.
4. It is common practice for the fair market rental value to be used to assess compensation in situations such as the current one where there has been a finding of an unauthorized transfer of occupancy. In support of the decision to deviate from the Board's usual practice, the member stated the Landlord's application was only seeking the RGI amount, explaining:

it was not clear from the L2 that the Landlord is actually seeking more than the claimed amount of \$559.00 in the application. Therefore, I found it unfair to allow the application to effectively be amended to increase the higher amount sought...

5. In the circumstances, I find the member erred in finding the Landlord was claiming compensation based upon the RGI rental rate and not the fair market rate. Admittedly, the Board's A2 Application form asks applicants "*How much rent was the tenant paying before they transferred occupancy of the rental unit*", to which the Landlord, in this case, indicated "\$559.00". Schedule "A" to the Landlord's A2 application, however, clarified the compensation sought by the Landlord was based upon the market rate of \$1427.00, noting as follows:

... Rent Geared to Income rent was \$559.00. The Market Rent for the Unit is currently \$1427.00

...TSHC also requests compensation from Pham for overholding the rental unit...TSHC submits that this compensation should be in the amount of market rent....

6. As the Landlord was not awarded compensation based upon the market rate claimed and sought in the Application, I find a serious error occurred as a result. A limited re-hearing pertaining to the compensation award was granted as a result.

Limited re-hearing re: compensation

7. The fair market rate for the rental unit is \$1,427.00. This is the amount the Landlord charges for other similar units in the building.
8. Based upon the monthly rent, the daily compensation is \$46.91. This amount is calculated as follows: \$1427 x 12 months, divided by 365 days.
9. The Unauthorized Occupant owes the Landlord \$14,119.91 in daily compensation for the use and occupation of the rental unit from February 5, 2025 to December 2, 2025.
10. While I am certainly sympathetic to the Unauthorized Occupant's situation, the compensation in the Order shall be amended accordingly.

It is ordered that:

1. The request to review order LTB-L-037739-25 issued on December 12, 2025 is granted.
2. LTB-L-037739-25 order issued on December 12, 2025 is amended as follows:

Paragraphs 5 and 6 of the order are deleted and replaced with the following:

5. The Unauthorized Occupant shall pay to the Landlord \$14,119.91 which represents daily compensation for the use of the rental unit from February 5, 2025 to December 2, 2025.
 6. The Unauthorized Occupant shall also pay to the Landlord \$46.91 per day for compensation for the use of the unit from December 3, 2025, to the date they move out of the unit.
3. The balance of order LTB-L-037739-25 order issued on December 12, 2025 remains in full force and effect.
 4. The interim order issued on December 18, 2025 is cancelled.

February 6, 2026
Date Issued

Peter Nicholson
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.