



Order under Section 135 Residential Tenancies Act, 2006

File Number: LTB-T-076596-25

In the matter of: 201, 38 Walton Street
Port Hope ON L1A1N1

Between: Mike McNamara Tenant

And

Maryam Sadrieh Landlord
1723766 Ontario Limited
Max Popelavskis

Mike McNamara (the 'Tenant') applied for an order determining that Maryam Sadrieh (MS) and 1723766 Ontario Limited and Max Popelavskis (MP) collected or retained money illegally.

This application was heard by videoconference on February 9, 2026.

Only the Tenant attended the hearing.

As of 9:53 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 Tenant's evidence.

Any reference to the parties as **"Tenant"** and **"Landlord"** in this order is made for the purpose of determining this application only and without attributing to them the legal status of tenant/landlord under the *Residential Tenancies Act, 2006* (the 'Act').

Determinations:

1. The Tenant filed a T1 application under section 135 of the *Residential Tenancies Act, 2006* for an order that MS and MP collected money in contravention of the Act.
2. At the hearing, the Tenant stated that MS and MP were his landlords and the owners of the property. He submitted a Notice of Attornment, and a Notice of Assignment of Rents dated December 19, 2023, advising that Firm Capital Mortgage Fund Inc. had taken possession of the building as of December 21, 2023, because of a mortgage default and directing all tenants to pay rent to Firm Capital from that date.

3. The Tenant further stated that he nevertheless paid the January 2024 rent to MS and MP, who were the prior owners and mortgagors, and also paid the same month's rent to Firm Capital in order to avoid any dispute regarding nonpayment.
4. Subsection 135(1) of the Act permits a tenant or former tenant to apply for an order requiring the landlord, the superintendent, or an agent of the landlord to repay money collected or retained in contravention of the Act. Under section 47 of the *Mortgages Act*, a mortgagee in possession is deemed to be the landlord under the tenancy agreement. The person who was previously the landlord ceases to be the landlord while another person is deemed to be the landlord, and the person deemed to be the landlord is subject to the terms of the tenancy agreement and to the Act.
5. On the evidence, Firm Capital Mortgage Fund Inc. became the landlord on December 21, 2023, by operation of section 47 of the *Mortgages Act*. From that date, MS and MP ceased to be the landlords for the purpose of the tenancy. Section 135(1) of the Act authorizes relief only against a landlord, a superintendent, or an agent of the landlord. As of January 2024, MS and MP were none of these in relation to the Tenant. The relationship between the Tenant and MS and MP was therefore outside the scope of the Act, and the Board lacks jurisdiction to grant the relief sought against them under section 135 of the Act.

It is ordered that:

1. The Tenant's application is dismissed.

February 18, 2026
Date Issued

Joy Xiao
Member, Landlord and Tenant Board

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