



Order under Section 135 Residential Tenancies Act, 2006

File Number: LTB-T-061831-25

In the matter of: Schoolhouse, 318837 GREY ROAD 1
OWEN SOUND ON N4K5N4

Between: Kenneth William Fitzpatrick Tenant

And

Deborah Stewart Landlord

Kenneth William Fitzpatrick (the 'Tenant') applied for an order determining that Deborah Stewart (the 'Landlord') collected or retained money illegally.

This application was heard by videoconference on February 23, 2026.

Only the Tenant attended the hearing.

As of 10:03 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.

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 Tenant \$ \$ 3,186.43.

Illegal rent collected

2. The Tenant stated in the application that the Landlord unlawfully increased the rent above the guideline. The Tenant testified that he moved into the rental unit on September 18, 2023, and moved out on December 31, 2024. The rent was \$1,200.00 in 2023. The Tenant testified that the Landlord increased the rent to \$1,800.00 effective June 1, 2024, and that he paid \$1,800.00 from June 1 to December 31, 2024.
3. Subsection 116(4) of the *Residential Tenancies Act, 2006* (the 'Act') provides that an increase in rent is void if the landlord has not given the notice required by that section, and the landlord must give a new notice before the landlord can take the increase.
4. Subsection 135.1(1) of the Act provides that an increase that would otherwise be void under subsection 116(4) is deemed not to be void if the tenant has paid the increased rent

for at least twelve consecutive months. Subsection 135(4) provides that no order shall be made under section 135 with respect to an application filed more than one year after the person collected or retained money in contravention of the Act.

5. Subsection 136(1) provides that rent charged one or more years earlier is deemed to be lawful rent unless an application has been made within one year after the date that amount was first charged and the lawfulness of the rent is in issue in the application.
6. The uncontested evidence is that the Landlord increased the rent in June 2024 by \$600.00 without serving the Tenant with a notice of rent increase in accordance with the Act. In the absence of a valid notice, the increase was void and the lawful rent remained the rent payable immediately before the June 2024 increase.
7. I have considered whether the increased rent could nevertheless be treated as lawful under the deemed lawful provisions. The Tenant moved out on December 31, 2024, and therefore paid the increased amount for less than twelve consecutive months. As a result, the increase did not become lawful under subsection 135.1(1) and the \$600.00 increase remained an unlawful charge.
8. The Tenant filed the T1 application on July 27, 2025. Subsection 135(4) limits the Board's authority to order repayment to amounts collected or retained within the twelve-month period preceding the filing of the application. Accordingly, the Board may order repayment only for unlawful rent collected or retained on or after July 27, 2024. Any unlawful rent collected before that date is outside the limitation period and cannot be ordered returned.
9. Accordingly, I find that the Landlord collected rent in contravention of the Act by charging and receiving an additional \$600.00 per month. The Landlord shall pay the Tenant \$3,000.00, representing the unlawful rent collected within the limitation period, calculated as \$600.00 per month for the rent periods from August 1, 2024, to December 31, 2024, inclusive.

Illegal charge collected

10. The Tenant also seeks an order requiring the Landlord to refund an illegal charge of \$138.43 described as a maintenance or service fee. The Tenant testified that on October 15, 2024, he requested a repair to the heating system. The Tenant testified that the Landlord arranged for a service technician to attend and complete the repair, and that the Landlord then charged the Tenant \$138.43 for the service. The Tenant testified that he paid the amount shortly thereafter.
11. Subsection 134(1)(b) of the Act prohibits a landlord from requiring or attempting to require a tenant to pay any consideration for goods or services as a condition of granting the tenancy or continuing to permit occupancy of a rental unit where that consideration is in addition to the rent the tenant is lawfully required to pay. Section 20 of the Act requires a landlord to maintain the rental unit and comply with health, safety, housing, and maintenance standards. The heating system is part of the Landlord's maintenance obligations.
12. In these circumstances, I find that the Landlord was not entitled to charge the Tenant a service fee for repairing and maintaining the heating system. Pursuant to subsection

135(1) of the Act, the Tenant is entitled to an order requiring the return of money collected in contravention of the Act. I therefore find that the Landlord collected \$138.43 illegally and I order that amount returned to the Tenant.

13. The Tenants have incurred the cost of \$48.00 for filing the application and is entitled to reimbursement of those costs.

It is ordered that:

1. The total amount the Landlord shall pay the Tenant is \$3,186.43. This amount represents:
 - \$3,000.00 for excess rent collected.
 - \$138.43 for the illegal charge collected.
 - \$48.00 for the cost of filing the application.
2. The Landlord shall pay the Tenant the full amount owing by March 13, 2026.
3. If the Landlord does not pay the Tenant the full amount owing by March 13, 2026, the Landlord will owe interest. This will be simple interest calculated from March 14, 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.

March 2, 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.