



Amended Order
Order under Section 135
Residential Tenancies Act, 2006
And section 21.1 of the **Statutory Powers Procedure Act**

File Number: LTB-T-024712-25-AM

In the matter of: 2nd FLOOR, 1207 DOVERCOURT ROAD
TORONTO ONTARIO M6H2Y1

Between: Lily Hu Tenant

And

Marcy Aquintey Landlord

Lily Hu (the 'Tenant') applied for an order determining that Marcy Aquintey (the 'Landlord') collected or retained money illegally.

This application was heard by videoconference on October 27, 2025.

The Landlord, the Landlord's Legal Representative, Christina Nastas, and the Tenant, Lily Hu (LH), attended the hearing.

This amended order is issued to correct clerical errors in the order issued on February 2, 2026.

Determinations:

1. As explained below, the Tenant proved the allegations contained in the application on a balance of probabilities. Therefore, the Landlord must pay compensation to the Tenant.
2. The Tenant submitted and served an amended L2 application on October 26, 2025. I accepted this amended application, as it corrected the address of the rental unit, as well as bringing up-to-date the amount of alleged overcharged rent and determined that neither of these amendments prejudiced the Landlord.

Background

3. The Landlord entered into a lease with Chantelle Lavery (CL) for the rental unit on December 12, 2021, with the tenancy commencing on February 1, 2022.
4. LH contends that she commenced a subtenancy in the rental unit on October 1, 2023.

5. The Landlord submits that she did not authorize a subtenancy and that she became aware of LH's occupancy in the rental unit on October 4, 2023.
6. Both parties communicated with each other via text message, and copies of these text messages were submitted into evidence by the Landlord [DOC-6627400] and LH [DOC-6618205].
7. The Landlord communicated directly with LH in October 2023 (specifically October 29, 2023) in regard to how long the LH would be staying in the rental unit, as the Landlord expressed an intent to undertake renovations of the rental property.
8. The evidence indicates that the Landlord agreed that LH could remain in the rental unit until March 31, 2024 at the same rate of rent paid by CL (\$1,700.00) and that if LH stayed beyond March 31, 2024, a new rate of rent would become payable.
9. At issue is when LH became a tenant of the Landlord. It is undisputed that LH was a tenant of the Landlord on April 1, 2024.
10. LH submits that she became a tenant through the implementation of a tenancy agreement between herself and the Landlord during their discussions on October 29-30, 2023 regarding the length of LH's stay in the rental unit.
11. The Landlord submits that she did not enter into a tenancy agreement with LH in October 2023 and that CL was the tenant up until March 31, 2024. She submits that LH was an unauthorized occupant of the rental unit up until March 31, 2024, and that a new tenancy was created commencing April 1, 2024 by their mutual agreement, at a new monthly rent (\$1,825.00)

Applicable Law

12. Section 2(1) of the *Residential Tenancies Act, 2006* (the 'Act') states:

"tenant" includes a person who pays rent in return for the right to occupy a rental unit...

"subtenant" means the person to whom a tenant gives the right under section 97 to occupy a rental unit.

13. Section 97(1) of the Act states that a tenant may sublet a rental unit to another person with the consent of the landlord.

14. Section 100 of the Act deals with unauthorized occupancy. It states:

100(1) If a tenant transfers the occupancy of a rental unit to a person in a manner other than by an assignment authorized under section 95 or a subletting authorized under section 97, the landlord may apply to the Board for an order terminating the tenancy and evicting the tenant and the person to whom occupancy of the rental unit was transferred.

(2) TIME LIMITATION – An application under subsection (1) must be made no later than 60 days after the landlord discovers the unauthorized occupancy.

15. Subsection 103(2) of the Act states:

103(2) A landlord does not create a tenancy with an unauthorized occupant of a rental unit by accepting compensation for the use and occupation of the rental unit, unless the landlord and unauthorized occupant agree otherwise.

16. Subsection 104 of the Act provides:

104 (1) If a person occupies a rental unit as a result of an assignment of the unit without the consent of the landlord, the landlord may negotiate a new tenancy agreement with the person. 2006, c. 17, s. 104 (1).

(2) If a subtenant continues to occupy a rental unit after the end of the subtenancy and the tenant has abandoned the rental unit, the landlord may negotiate a new tenancy agreement with the subtenant. 2006, c. 17, s. 104 (2).

(3) Sections 113 and 114 apply to tenancy agreements entered into under subsection (1) or (2) if they are entered into no later than 60 days after the landlord discovers the unauthorized occupancy. 2006, c. 17, s. 104 (3).

(4) A person's occupation of a rental unit shall be deemed to be an assignment of the rental unit with the consent of the landlord as of the date the unauthorized occupancy began if,

(a) a tenancy agreement is not entered into under subsection (1) or (2) within the period set out in subsection (3);

(b) the landlord does not apply to the Board under section 100 for an order evicting the person within 60 days of the landlord discovering the unauthorized occupancy; and

(c) neither the landlord nor the tenant applies to the Board under section 101 within 60 days after the end of the subtenancy for an order evicting the subtenant.

Analysis

17. I find that, on a balance of probabilities, LH was not an authorized subtenant in accordance with s. 97(1), as there is no evidence of the Landlord consenting to the subtenancy. As such, LH was an unauthorized occupant.

18. There is no evidence that the Landlord took any action to remove LH as an unauthorized occupant as she could have under s. 100 of the Act.

19. Section 104(4) of the Act says that the unauthorized occupancy shall be deemed to be an assignment of the rental unit with the consent of the landlord if (a) a tenancy agreement is not entered into within 60 days and (b) the landlord does not apply under s. 100 for an eviction within 60 days.

20. The Landlord submitted that a tenancy agreement was not entered into with LH in October 2023.

21. The Landlord further submitted that a new tenancy agreement, with a rent of \$1,825.00/month, was offered to LH sometime after February 3, 2024, when she received correspondence from LH and CL regarding the assignment of the tenancy [DOC-6627400, p. 2].
22. I find that, on a balance of probabilities, the Landlord did not either enter into a tenancy agreement or commence s. 100 proceedings in accordance with s. 104(4)(a) and (b) of the Act and that, therefore, the tenancy was assigned to LH 60 days after the discovery of her unauthorized occupancy (October 4, 2023 + 60 days = December 3, 2023).
23. On October 30, 2023, the evidence (text messages) indicates that the Landlord agreed with LH that "If staying only till end of march you may keep the same rate as Chantelle" [DOC-6618205, p. 12].
24. Therefore, on a balance of probabilities, I find that the rate of rent under the assignment as of December 3, 2023 was \$1,700.00/month.
25. Given that I have determined that the tenancy was assigned to LH as of December 3, 2023 at a monthly rent of \$1,700.00, I find that the monthly rent of \$1,825.00 charged to LH as of April 1, 2024 constitutes an illegal rent. The Landlord must reimburse LH for this extra rent charged since April 2024.

It is ordered that:

1. The total amount the Landlord shall pay the Tenant is \$2,375.00 for excess rent collected. This amount represents nineteen (19) months of extra rent in the amount of \$125.00/month, charged for the period April 1, 2024 – October 1, 2025.
2. The Landlord shall pay the Tenant the full amount owing by February 28, 2026.
3. If the Landlord does not pay the Tenant the full amount owing by February 28, 2026, the Landlord will owe interest. This will be simple interest calculated from March 1, 2026 at 4.00% annually on the balance outstanding.
4. **The lawful monthly rent effective April 1, 2024 is \$1,700.00.**

February 2, 2026
Date Issued

Curtis Smith
Member, Landlord and Tenant Board

March 16, 2026
Date Amended

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.