



Order under Section 135 Residential Tenancies Act, 2006

Citation: Dbagh v Frontline Property Management, 2026 ONLTB 22549

Date: 2026-03-16

File Number: LTB-T-097621-24

In the matter of: 2, 15 Coldwater Road West
Orillia ON L3V3L2

Between: Selena Dbagh Tenant

And

Tammy Nicholas Landlord

Selena Dbagh (the 'Tenant') applied for an order determining that Tammy Nicholas (the 'Landlord') collected or retained money illegally.

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

The Tenant, the Landlord, and the Landlord's legal representative, Andrea Lahey, attended the hearing.

Determinations:

1. For the reasons that follow, the Tenants' application is dismissed.
2. The Tenant alleged that a rent deposit was given to the Landlord and then not returned as the Tenant did not take possession of the rental unit.

Background Facts

3. The Tenant and the Landlord signed a tenancy agreement on October 18, 2024. The Tenant paid the Landlord \$3,192.90 which was for first and last months rent in the total amount of \$2,990.00 plus \$192.90 for per diem rent from October 27 to 31, 2024. The tenancy agreement was for a fixed term ending October 31, 2025
4. Despite the tenancy starting on October 27, 2024, the Tenant was given the keys to the unit on October 25, 2024. The Tenant stated the unit was listed "as is" and she wanted to be able to clean prior to moving in her belongings.
5. The Tenant stated she started cleaning under the fridge and discovered what she thought was rodent urine and feces. The Tenant started to feel ill and did not finish cleaning the

unit. The Tenant told the Landlord about her discovery, and the Landlord reimbursed the Tenant the cost of her cleaning supplies.

6. The Tenant returned to the unit on October 26, 2024, to finish cleaning but while she was at the unit she started to feel like the unit was not suitable for her. The Tenant then advised the Landlord she was terminating the lease agreement. The Tenant stated the Landlord offered to retain pest control to attend the unit on October 27, 2024, but she was not interested in this.
7. The Tenant was very forthright in her testimony and stated at the time she was not on any medication for anxiety and that she may have acted out of proportion. The Tenant said she was worried about bringing her two cats into the unit if there were rodents.
8. The Tenant returned the keys to the Landlord by leaving them in the lock box on October 26, 2024, or October 27, 2024. The Tenant stated the Landlord did not object to her moving out of the rental unit.
9. The Landlord's position is that she did not agree to terminate the tenancy and could not force the Tenant to stay once the Tenant decided she no longer wanted to live in the rental unit. The Landlord testified she listed the unit the day after the Tenant told her she was not staying and that she conducted 1 to 2 showings of the unit per week. The Landlord testified that despite her efforts to re-rent the unit, the unit remained empty until January 2025 before she could secure a new tenant.

Analysis

10. Section 107 of the Residential Tenancies Act, 2006 (the 'Act') provides:

A landlord shall repay the amount received as a rent deposit of a rental unit if vacant possession of the rental unit is not given to the prospective tenant.

11. The decision of the Ontario Court of Appeal in *Musilla v Avcan Management Inc.*, 2011 ONCA 502 provides guidance on the interpretation of section 107 of the Act. Starting at paragraph 8:

[8] The Board and the Divisional Court held that s. 107(1) requires a landlord to return a rent deposit only if vacant possession is refused by the landlord. Where there is an agreement for a rental of a residence and the tenant does not take possession of the residence when offered, the landlord is entitled to retain a rent deposit in accordance with the provisions of the rental agreement.

[9] We agree with the reasons of the Divisional court that s. 107(1) of the Act does not authorize a tenant to obtain the automatic return of a rent deposit where the landlord has done everything necessary to give the possession of the lease premises and the tenant has unilaterally repudiated the rental agreement.

[10] In particular, we agree with the following observation [at para 22]:

When one looks at the words of section 107(1), it is notable that the landlord is to return the deposit if vacant possession is not given to the prospective tenant. The words “not given” suggest that it is the refusal or inability of the landlord to provide the premises that triggers the obligation to return the deposit to the prospective tenant.

[11] This interpretation accords with common sense and fairness. To permit a tenant, who is legally obligated to take possession, to regain a rent deposit where the landlord has done everything it was required to do in order to give possession would render meaningless the concept of a rent deposit to secure the tenant’s obligation to pay rent.

12. Accordingly, the only question before the Board on the present matter is did the Tenant unilaterally repudiate the rental agreement?

Did the Tenant unilaterally repudiate the rental agreement?

13. Based on the evidence before me, I find that there was a tenancy agreement in place when the Tenants sought the return of their rent deposit. As of October 18, 2024, when the parties signed the tenancy agreement, there was a mutual understanding and agreement by the parties on the essential terms of the tenancy. The parties agreed to the commencement date, the rental amount, and that the deposit would be used for the last month’s rent deposit, as well as 5 days of per diem rent to be paid for the right to occupy the unit on October 27, 2024. The Landlord gave the Tenant the key on October 25, 2024, at the Tenants request so she could clean. The unit was vacant and ready for the Tenant to take possession.
14. There was no evidence that the unit was uninhabitable. While I acknowledge some evidence of rodent activity, the Tenant’s testimony did not suggest that the unit was infested. In fact, the Tenant was not even sure she saw a live rodent but stated she may have saw one that quickly dashed off. The Landlord acted appropriately, reimbursed the Tenant for her cleaning supplies and offered to conduct immediate pest control. Additionally, the Tenant admitted that she may have acted out of proportion under the circumstances.
15. The Landlord’s lack of verbal objection when the Tenant advised she was leaving does not equate to an agreement to end the tenancy.
16. Section 106(1) of the Act states that “a landlord may require a tenant to pay a rent deposit with respect to a tenancy if the landlord does so on or before entering into the tenancy agreement.
17. This section of the Act allows for a last month’s rent to be paid prior to or at the time of entering into a tenancy agreement. A portion of the payment the Tenant made was equivalent to one month’s rent; therefore, the deposit paid to the Landlord was lawful. Since the Tenant unilaterally repudiated the tenancy agreement, there is no obligation for the last month’s rent to be returned.

18. The Act further requires lawful notice when terminating a tenancy. Subsection 44(4) states that notice shall be given at least 60 days before the expiration date specified in the tenancy agreement, to be effective on that expiration date. The Tenant agreed to a fixed term of one full year.
19. However, in accordance with section 16 of the Act, a landlord has an obligation to minimize their losses by taking reasonable steps to re-rent the unit.
20. Based on the testimony and evidence of the Landlord, I am satisfied that the Landlord took reasonable steps to mitigate her losses. The Landlord placed an advertisement the following day after learning that the Tenant did not want to stay in the unit. The Landlord conducted multiple showings and made best efforts to try and rent the unit quickly. Despite these efforts, the Landlord was unable to rent the unit until January 1, 2025. Considering the time it takes to monitor responses to an advertisement, schedule showings, and the time it takes for a prospective tenant to submit a rental application and supporting documents, as well as considering the reduction in rental interest over the holidays, a 3-month delay in re-renting the unit is not unreasonable.
21. Since the Tenant unilaterally terminated the tenancy agreement which was to commence on October 27, 2024, and the Landlord was, despite reasonable efforts, unable to re-rent the unit until January 1, 2025, the Landlord is also entitled to retain the amount the Tenant paid for her first month rent as well as the 5 days of per diem rent. Accordingly, the Tenant's application is dismissed.

It is ordered that:

1. The Tenant's application is dismissed.

March 16, 2026
Date Issued

Melissa Anjema
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.