



**Order under Section 135
Residential Tenancies Act, 2006**

File Number: LTB-T-065689-25

In the matter of: 77 TOKYO CRES
ELLIOT LAKE ON P5A2S1

Between: Krystal Angele Boucher Tenant

And

Peter Lendak Landlord

Krystal Angele Boucher (the 'Tenant') applied for an order determining that Peter Lendak (the 'Landlord') collected or retained money illegally.

This application was heard by videoconference on March 18, 2026.

The Tenant and the Landlord attended the hearing.

Preliminary Issue:

1. This application was adjourned by the Board on January 5, 2026, because neither party had served disclosure on the other in accordance with the Board's Rules of Procedure.
2. The parties agreed to exchange disclosure by email. Member Greaves clarified that any disclosure the parties intend to rely on must be served in accordance with the Rules, which required service within seven days.

Determinations:

1. The Tenant failed to comply with these directions and did not properly disclose the evidence they later sought to rely upon at the hearing.
2. At the outset of the hearing, the Tenant requested an adjournment, stating that their failure to comply arose from a misunderstanding of the Board's directions.
3. I considered this request under Rule 21 of the Board's *Rules of Procedure*, which requires that an adjournment only be granted where it is fair and just in the circumstances. Parties must exchange relevant evidence in advance of the hearing so that each side has a meaningful opportunity to review, respond, and prepare submissions.

4. The failure to disclose relevant evidence undermines the integrity of the hearing process and impairs the opposing party's ability to respond.
5. I find that permitting the Tenant to rely on undisclosed evidence at the hearing would amount to a "hearing by ambush". A hearing by ambush arises where one party seeks to introduce evidence without prior disclosure, thus depriving the opposing party of the opportunity to meaningfully respond. Such conduct, in my view, is fundamentally inconsistent with the principles of natural justice and procedural fairness.
6. I will not permit a party to benefit from its own failure to comply with disclosure obligations, particularly where the non-compliance results in prejudice to the other party.
7. I find that Member Greaves prior directions on January 5, 2026, were clear, unambiguous, and provided sufficient time for compliance. Parties are responsible for taking reasonable steps to understand Board directions. A misunderstanding, without evidence of exceptional circumstances, does not justify non-compliance.
8. Granting an adjournment in these circumstances would effectively reward the Tenant's failure to comply with procedural directions and would undermine the authority of the Board's processes.
9. I also find that an adjournment would cause prejudice to the opposing party, who complied with the disclosure requirements and attended the hearing prepared to proceed.
10. Given the failure to comply with disclosure obligations, the Board exercised its discretion to exclude the undisclosed evidence. Given the Tenant's failure to comply with disclosure obligations, I exercised my discretion to exclude the undisclosed evidence. I find this exclusion necessary to preserve procedural fairness and prevent prejudice arising from a hearing by ambush.
11. The Tenant's request for an adjournment is denied.
12. The undisclosed evidence is excluded. As the Tenant's case relied on evidence that is not admissible due to non-disclosure, there is insufficient evidence before the Board to support the claim.
13. I find that the Tenant has not provided sufficient evidence to establish the alleged compensation. The Tenant also failed to comply with Rule 19, which requires that all evidence be disclosed to the opposing party at least seven days prior to the hearing. As a result, I cannot consider any late-filed evidence, estimates, or invoices that were not properly disclosed within the required timeframe.
14. Accepting such undisclosed material at this stage would amount to a "hearing by ambush" and would be highly prejudicial to the Tenant. The Tenant would be deprived of a fair opportunity to provide a full answer and defence to the claims made against them. Procedural fairness requires that each party have adequate notice of the evidence to be relied upon, and in this case, that requirement has not been met.
15. For all the reasons above, the Tenant's application shall be dismissed.

It is ordered that:

1. The Tenant's application is dismissed.

March 27, 2026

Date Issued

Anthony Bruno

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.