



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

Citation: Vadavathi v Morguard NAR Canada Limited Partnership, 2026 ONLTB 21388

Date: 2026-03-16

File Number: LTB-T-091872-25-AM

In the matter of: 302, 1423 MISSISSAUGA VALLEY BLVD
MISSISSAUGA ON L5A4A5

Between: Nikesh Vadavathi
Rakhi Alackaparambil Rajan Tenants

And

Morguard NAR Canada Limited Partnership Landlord

Nikesh Vadavathi and Rakhi Alackaparambil Rajan (the 'Tenants') applied for an order determining that Aspen Apartments Limited (the 'Landlord') collected or retained money illegally.

This application was heard by videoconference on February 24, 2026.

The Landlord's witness, Pubuduni Wickramasinghe, the Landlord's representative, Ellena Azadian, and one of the Tenants, Nikesh Vadavathi, attended the hearing.

This amended order is issued to correct clerical errors in the original order issued on March 16, 2026.

Determinations:

Preliminary Issue

Application is amended

1. The parties agreed that Morguard NAR Canada Limited Partnership was the Landlord within the meaning of the Act and that the application should be amended to delete Aspen Apartments Limited and replace it with Morguard NAR Canada Limited Partnership as the Landlord. The application was amended accordingly.

The Application

2. As explained below, the Tenants did not prove the allegations contained in the application on a balance of probabilities. Therefore, the application is dismissed.
3. It is undisputed that the Tenants vacated the unit on November 30, 2025.

Did the Landlord collect an Illegal rent?

4. The Tenant testified that the Tenants' rent was automatically withdrawn from their bank account by way of preauthorized chequing. In 2024, the lawful monthly rent was \$2,164.26.
5. After several months, the Tenants became aware that the Landlord was withdrawing \$2,283.29 rent, which was an increase of \$119.03 or 5.5%). The Tenant denied receiving a Notice of Rent Increase ('NORI') from the Landlord. After contacting the Landlord, the Tenants' rent was reduced as of July 2025 to \$2,218.36, representing a rent increase in the amount of rent to 2.5% (i.e. the LTB guideline amount).
6. The Tenants request return of the additional 3% rent (i.e. \$64.93) the Landlord withdrew for rent from January 1, 2025 up to and including June 2025, in the amount of \$389.58.
7. The Landlord's representative submitted that the NORI was based on an above-guideline rent increase that the Landlord had applied for, which increase has not yet been approved. She produced a copy of the list of residents served with the NORI on September 30, 2024 [Doc 7381689, page 7]. The serving list indicates that the Tenants were personally served with the NORI at 3:25 p.m. on September 30, 2024.
8. The Landlord's witness, Pubuduni Wickramasinghe, testified that she was the person who served the Tenants with the NORI. She said that she wedged the NORI between the door and the door frame. Depending on the unit, the NORI would either go all the way through the door or part way.
9. Based on the evidence before me, I am satisfied that the Landlord served the NORI in accordance with the Board's rules. I find it more likely than not that the Tenants received the NORI. It is evident to me that the serving list was updated with a time of service each time service was completed and the person who served the NORI attended the hearing to describe how the NORI was served. I have no reason to doubt the truthfulness of her testimony.
10. The Landlord's representative stated that Tenants had a choice to pay the above-guideline amount set out in the NORI or to pay the guideline amount. However, if Tenants did not advise the Landlord as to which increase they wanted to pay (i.e. 2.5% or 5.5%), the Landlord automatically charged the above guideline amount for rent. Given that the Tenant did not dispute the above-guideline amount until June 2025, the Landlord legally withdrew the amount of rent set out in the NORI. She stated that if the above-guideline amount of 5.5% is not granted or a lesser above-guideline amount is granted, the Tenants will be refunded the difference.

Analysis

11. Subsection 116 of the *Residential Tenancies Act* (the 'Act') provides that a NORI must be served a minimum of 90 days in advance. As explained above, I have found that the NORI was served in accordance with s.116 of the Act.
12. There is no evidence before me that prior to June 2025, the Tenant asked the Landlord to only withdraw the guideline increase of 2.5% or that the Landlord refused to do so. As such, I find that the Landlord did not collect rent in excess of the amount allowed by the *Residential Tenancies Act, 2006* (the 'Act').
13. Therefore, the Tenants' application is dismissed.

It is ordered that:

1. The Tenants' application is dismissed.

March 16, 2026

Date Issued

Karen Gonçalves

Member, Landlord and Tenant Board

March 23, 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.