



Order under Section 87 Residential Tenancies Act, 2006

Citation: Montgomery Square Inc v Resnick, 2026 ONLTB 27906

Date: 2026-04-09

File Number: LTB-L-043557-25

In the matter of: 1809, 25 MONTGOMERY AVE
TORONTO ON M4R0A1

Between: Montgomery Square Inc Landlord

And

Andrew Resnick Former Tenant

Montgomery Square Inc (the 'Landlord') applied for an order requiring Andrew Resnick (the 'Former Tenant') to pay the rent and daily compensation that the Former Tenant owes.

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

The Landlord's agent George Parker, the Landlord's legal representative Sam Ursino and the Former Tenant attended the hearing.

Determinations:

1. At the hearing, the Former Tenant requested an adjournment so he could consult with a legal representative with respect to the claims raised in the application. He also advised that he was not certain whether he needed to consult with a legal representative, but that he could benefit from a consultation. The Former Tenant confirmed he was aware of the Landlord's application since July 2025 and indicated if an adjournment was not granted, he is ready to proceed. The Landlord's legal representative disputed the adjournment request and argued that the Former Tenant had ample opportunity to either retain or seek advice from a legal representative and that an adjournment would be prejudicial to the Landlord.
2. Based on the submission of the parties, coupled with the factors enumerated in the LTB Guideline (No.1) pertaining to adjournments, the Board declined the adjournment request. The Former Tenant was aware of the application since July 2025. A copy of the L10 application and the Notice of Hearing was also sent to the Former Tenant on October 21, 2025. Thus, the Former Tenant had ample opportunity seek advice from a legal representative. Further, the Former Tenant does not know for certain whether he requires a legal consultation. He was ready to proceed, the issue raised on the application is not complex, and an adjournment in these circumstances would be prejudicial to the Landlord.

3. As explained below, the Landlord has proved the allegations contained in the application on a balance of probabilities. Therefore, the Former Tenant will be ordered to pay the Landlord rent that the Former Tenant owes.
4. The parties agreed:
 - a) The Tenant Former Tenant vacated the rental unit on September 30, 2024, and that the keys were returned.
 - b) The tenancy between the parties was for a fixed term from August 1, 2024, till July 31, 2025.
 - c) The monthly rent is \$4,438.00, due on the 1st of the month.
 - d) The Landlord collected a last month rent deposit on July 26, 2024, in the amount of \$4,438.00. No Interest has been paid to the Former Tenant.
 - e) The Landlord's application is amended to reflect that rent owing for the period of August 2024 is \$4,438.00, the Former Tenant paid \$400 to the Landlord, and the balance owing is \$4,038.00. For the period of September 2024, no rent is owing, and for the period of October 2024, the Former Tenants owes the full rent in the amount of \$4,438.00. The total rent the Landlord seeks on their application is \$8,476.00.
 - f) The last month's rent deposit will be applied to the total amount of rent owing to the Landlord.
5. There is also no dispute between the parties on or around September 2024, the parties had conversations with each other regarding early termination of the lease. The Landlord was agreeable to terminating the lease early provided that a 30 days' notice was provided to the Landlord, and the Former Tenant paid rent for the period of October 2024. The Landlord would be willing to terminate the tenancy on October 31, 2024.
6. The Landlord's agent testified that in the third week of September 2024, the Former Tenant advised the Landlord's agent that they were vacating the rental unit on September 30, 2024. He claimed that there was no agreement to terminate the tenancy between the parties on this date and that he advised the Former Tenant to provide a 30 days' notice for a termination of October 31, 2024. When the Former Tenant vacated the rental unit on September 30, 2024, the Landlord took immediate steps to re-rent the unit for the month of October 2024. The rental unit was re-rented near the end of October 2024, and the new tenant started paying the new rent in the amount of \$3,975.00 commencing November 1, 2024.
7. The Tenant testified that he does not dispute the claims made by the Landlord's agent. The Former Tenant claimed that in mid-September 2024 – which I understand to be the third week of September 2024, he had discussions with the Landlord's agent regarding the early termination of the lease and the Landlord's agent advised him that if he paid rent for October 2024, the Former Tenant could terminate the lease. With respect to the notice, the Former Tenant testified that the Landlord's agent knew he was vacating the rental unit, so that was sufficient 30 days' notice to terminate the tenancy for October 31, 2024. The Landlord's agent never advised the Former Tenant whether the notice had to be in writing.

The Former Tenant confirmed he did not provide written notice to the Landlord to terminate the tenancy. The Former Tenant further testified that after he vacated the rental unit, he texted the Landlord's agent advising him that he had vacated the rental unit, and that he was not able to follow through on the arrangement that they had agreed to – with respect to the payment of rent for October 2024.

Tenants' obligation to pay rent

8. As previously indicated, the parties entered into a one-year fixed term lease. Section 37 of the Act provides that a tenancy may be terminated only in accordance with the Act.

9. Also, Subsection 43 of the Act states:

Where this Act permits a landlord or tenant to give a notice of termination, the notice shall be in a form approved by the Board and shall,

- (a) identify the rental unit for which the notice is given;
- (b) state the date on which the tenancy is to terminate; and
- (c) be signed by the person giving the notice, or the person's agent

10. Given the requirements that are to be included in a notice of termination under subsection 43 of the Act, it's clear that the Act requires that the notice must be in writing, because an oral notice cannot be signed.

11. In accordance with sections 44 and 47 of the Act, the earliest termination date the Former Tenant could have specified on a notice of termination was July 31, 2025, the last day of the one-year lease period. While the Former Tenant asserted that they gave the Landlord an oral notice of termination in September 2024, this could not have been a valid notice as the Former Tenant was attempting to terminate the tenancy before July 31, 2025, and the Tenant did not provide a written notice of termination in a form approved by the Board as mandated under subsection 43 of the Act.

12. However, subsection 37(3) of the Act stipulates that a notice of termination need not be given if a landlord and a tenant have agreed to terminate a tenancy. The word "agreed" is not defined in the Act, but the meaning of an agreement is well established in the common law of contract. An agreement is formed when one party communicates an offer to the other, and the offeree communicates its acceptance.

13. I agree with the analysis in *Dadiala v Griffin*, [2001] O.R.H.T.D. No 84, in which the Ontario Rental Housing Tribunal recognized that while a notice of termination under the Act must be in a form prescribed by the Act, an otherwise deficient notice of termination provided by a tenant can support a finding of the existence of an agreement to terminate a tenancy if it is accepted by the landlord. However, the landlord's acceptance must be "unequivocal", and it must also be clear that there is a meeting of the minds.

14. Based on the evidence adduced at the hearing, I am not satisfied that there was an agreement between the parties to terminate the tenancy for October 31, 2024. It's clear that the Landlord's acceptance of an early termination was not "equivocal". The termination of the tenancy was conditional upon the Former Tenant providing 30 days' notice and paying rent for the period of October 2024. The Former Tenant also acknowledged that he could not meet the terms for the termination of the tenancy as he could not pay the rent for October 2024, which suggests, more likely than not, that the Former Tenant was aware that the tenancy was not terminated in accordance with what the parties had agreed to. Accordingly, I find that the parties did not agree to terminate the tenancy.
15. The Former Tenant did not provide the Landlord with a valid notice of termination, and the parties did not enter into an agreement to terminate. Therefore, in accordance with section 88(1) of the Act, the Former Tenant could be responsible for paying the rent all the up to July 31, 2025, the end date for lease. However, that does not end the analysis. Sections 16 and 88(4) of the Act requires landlords or tenants to take reasonable steps to minimize their losses they may suffer a result of another party's breach of the Act. In this case, the Former Tenant breached the Act by unilaterally repudiating the tenancy agreement before July 31, 2025, the last day of the lease, and without there being an agreement with the Landlord to terminate the tenancy early.
16. In this situation, the Landlord's obligation under section 16 and 88(4) of the Act is to take immediate steps to try to re-rent the unit after learning that the Former Tenant had vacated before the end of the lease. I find on a balance of probabilities that the Landlord mitigated their losses. The Landlord took reasonable steps to re-rent the unit and found a new tenant near the end of October 2024. A copy of the lease agreement was filed as evidence and supports the Landlord's claim pertaining to mitigation. The Landlord's agent testified that the new tenant started paying new rent to the Landlord starting November 1, 2024. His testimony was not seriously challenged by the Former Tenant; thus, I accept this his evidence in this regard. Accordingly, I find that the Former Tenant's obligation to pay rent ended October 31, 2024.
17. The last month rent deposit of \$4,438.00 will be deducted from the amount owing by the Former Tenant.
18. With respect to interest owing on the Last month deposit, subsection 106(6) of the Act requires that a landlord pay interest to the tenant annually on the amount of the deposit. Annually means a year. Since the Former Tenant did not reside in the rental unit for a year, the Landlord is not required to pay interest on the last month's rent deposit. Accordingly, no interest on the last month's rent deposit will be awarded.
19. The amount the Landlord seeks on their application is \$8,476.00 for arrears of rent from August 1, 2024, to October 31, 2024. Subtracting the last month's rent deposit from this amount the total amount equates to \$4,038.00 (\$8,476.00- \$4,438.00).
20. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
21. The total amount the Former Tenant owes the Landlord is \$4,224.00 (\$4,038.00 + 186).
22. Accordingly, I will award this amount to the Landlord.

23. This order contains all the reasons for my decision within it. No further reasons shall be issued.

It is ordered that:

1. The Former Tenant shall pay to the Landlord \$4,224.00, which represents rent and compensation owing up to October 31, 2024, and the costs of the application. The rent deposit is deducted from the amount owing by Former Tenant.
2. If the Former Tenant does not pay the Landlord the full amount owing on or before April 20, 2026, the Former Tenant will start to owe interest. This will be simple interest calculated from April 21, 2026, at 4.00% annually on the balance outstanding.

April 9, 2026

Date Issued

Inderdeep Padda

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.