



Order under Section 135 Residential Tenancies Act, 2006

Citation: Kazakos v Bougie, 2026 ONLTB 16163

Date: 2026-04-07

File Number: LTB-T-050940-25

In the matter of: LOWER, 33 HAROLD AVE
WELLAND ON L3B1J6

Between: Melissa Kazakos
Christian McGrath
Tenants

And

Donald Bougie
Landlord

Melissa Kazakos and Christian McGrath (the 'Tenants') applied for an order determining that Donald Bougie (the 'Landlord') collected or retained money illegally.

This application was heard by videoconference on February 18, 2026. The Tenant, Christian McGrath, the Tenants' Legal Representative, R. Barber, the Landlord's Legal Representative, D. Ranger, and the Landlord attended the hearing.

Determinations:

1. The Tenants sought to withdraw the application, and I granted the request.
2. The Landlord requested that costs be awarded against the Tenants because this was their fifth attempt at relitigating the issue of the lawful rent that has been resolved by the LTB.
3. More accurately, this is the fourth time, and the timeline is as follows:
 - a. Order LTB-L-012058-24 issued on July 25, 2024, determined the lawful rent to be \$1,640.00.
 - b. Order LTB-T- 005661-24 (T2 Application) issued on January 6, 2025, dismissed the application because the Tenant did not attend a hearing on December 19, 2024. The Landlord's request for cost was denied.
 - c. Order LTB-T-065125-24 (T1 Application) issued on January 22, 2025, dismissed the application because the Tenants did not attend a hearing on January 16, 2025. The Landlord's request for costs was granted. That order found the Tenants' conduct to be unreasonable because they filed the application on August 2024, despite knowledge that the LTB already determined what the lawful rent was.

- d. On February 25, 2025, the Tenants filed a request to extend the time to review order LTB-L-012058-24. An endorsement dated March 3, 2025, denied the request because there was no reasonable explanation for the delay in filing a request to review the order.
 - e. On July 3, 2025, the Tenant filed this application disputing the lawful rent.
4. The Landlord requested that costs of \$593.25 be awarded against both the Tenants and their representative incurred for the three hours of work by legal representative in preparation for the hearing.
 5. The Tenants opposed the request stating that they only realized seven days prior that their previous representative filed LTB-T- 005661-24 on their behalf. That representative went off the record at the hearing on December 19, 2025. Both the current representative and the Tenants were unaware of that hearing and one of the Tenants' email address for service was incorrect.
 6. The Tenants also became aware of order LTB-T-065125-24 when they saw it enclosed in the Landlord's disclosure. Had the Tenants been aware of order LTB-T-065125-24, they would not have filed this application. Their representative acknowledged that the issue of the lawful rent is res judicata, and upon receiving the Landlord's disclosure on February 11, 2026, he consulted with the Tenants, and on February 17, 2026, informed the Landlord's Legal Representative of the Tenants' intention to withdraw the application.
 7. The Tenants, who filed this application in July 2025 claimed it was an honest mistake.
 8. The Board's Interpretation Guideline 3 states that '*A Member has the discretion to require a party, a party's agent or a party's legal representative to pay, as costs, any representation or preparation expenses of another party where the conduct of the party, a party's agent or a party's legal representative was unreasonable. Conduct is unreasonable if it causes undue expense or delay and includes ... Bringing a frivolous or vexatious application or motion and Initiating an application or any procedure in bad faith.*'
 9. Based on the submissions of the parties, I find the Tenants' conduct to be unreasonable, as this application should not have been filed in the first place. The main issue raised about the lawful rent was without merit and caused the Landlord to incur avoidable legal expenses.
 10. In the request to extend the time to file a request to review order LTB-L-012058-24, filed on February 28, 2025, the Tenants state in paragraph 11 and 12:

A T1 application would not apply because the Order in the rent arrears decision already determined the arrears to be a lawful amount owing. A T1 application is restricted to recovering amounts that are not lawfully collected by the Landlord, such as per an Order.

The tenants' position that the decision was incorrect is something that needed to be dealt with in a review on the basis of a substantial error, rather than a separate T1 application.
 11. Accordingly, even if the Tenants were unaware of their first T1 application, LTB-T-065125-24, which I doubt, they filed this T1 application on July 3, 2025, months after acquiescing that a T1 application was not appropriate in the circumstance because order LTB-L-012058-

24 determined the lawful amount owing. The lawful amount owing can only be determined once the lawful rent has first been established. Therefore, I am satisfied that the Tenants filed this application in bad faith.

12. The Landlord requested \$593.25 in costs for three hours of work and I find that the Tenant's actions directly contributed to the costs being claimed by the Landlord. Rule 23.2 of the LTB's Rules of Procedure states:

Where the LTB orders a party to pay the representation/preparation fees incurred by another party, these fees shall not exceed \$100 per hour for the services of a paid representative to a maximum of \$700.

13. As a result of the Tenants' bad faith application, the Tenants will be ordered to pay \$300.00 in costs to the Landlord.

It is ordered that:

1. The Tenants' application is dismissed.
2. The Tenants shall pay \$300.00 in costs to the Landlord.
3. If the Tenants do not pay the Landlord the full amount owing on or before, April 30, 2026, the Tenants will start to owe interest. This will be simple interest calculated from May 1, 2026, at 4.00% annually on the balance outstanding.

April 7, 2026
Date Issued

Jitewa Edu
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.