Order under Subsection 87(1)
Residential Tenancies Act, 2006

Citation: 720745 Ontario Inc. v Tweedy, 2026 ONLTB 28210
Date: 2026-04-14
File Number: LTB-L-100553-23
LTB-T-008864-24

In the matter of: 404, 277 ST. GEORGE ST
TORONTO ON M5R2R1

Between: 720745 Ontario Inc. — Landlord

And

Apr 14, 2026

Dale Whitmore

Sean Tweedy
Cara Coldwell — Tenants

And

Rester — Other party

720745 Ontario Inc. (the 'Landlord') applied for an order requiring Sean Tweedy and Cara Coldwell (the 'Tenants') to pay the rent that the Tenants owe. The Tenants applied for an order determining that another party, Rester, had substantially interfered with their reasonable enjoyment.

The applications were heard together by videoconference on April 2, 2026.

The Landlord’s representative Paul Kyte, the Tenants, and the Tenants’ representative Stephanie Anderson attended the hearing.

Reasons:

1. For the following reasons, the Landlord’s application is granted and the Tenants’ application is dismissed.

Procedural history

2. On November 10, 2023, the Tenants gave the Landlord a notice to end the tenancy effective December 31, 2023. This was less than the 60 days’ notice required under the *Residential Tenancies Act, 2006* (RTA). The Landlord replied that it did not accept the notice, and that the Tenants would owe rent to January 31, 2024.

3. The Tenants did not pay rent for December, 2023. They took the position that their rent deposit should be applied to that month because it was, in their view, the last month of their tenancy.

4. On December 24, 2023, the Landlord filed an L9 application seeking an order for payment of December's rent.

5. The Tenants vacated the unit on December 31, 2023.

6. In January, 2024, the Landlord painted the unit and did minor repairs, then listed the unit for rent effective February 1, 2024.

7. On January 31, 2024, the Tenants filed a T2 application regarding substantial interference with reasonable enjoyment. They named a company called "Rester" as the only respondent.

8. On May 1, 2024, the L9 came before the Landlord and Tenant Board (LTB). It was adjourned on consent to be heard with the T2.

9. On January 20, 2026, the Tenants filed a request to amend the T2. Among other amendments, they asked that the respondent be changed from "Rester" to the Landlord's name.

10. The matters were heard together on April 2, 2026.

<u>Preliminary issue: reasonable apprehension of bias</u>

11. The Tenants argued that there may have been bias in the proceeding because the Landlord's representative, Mr. Kyte, is a former Member of the LTB.

12. First, the Tenants suggested that there could be a reasonable apprehension that I might be biased. However, they did not pursue that argument after I confirmed that I did not know Mr. Kyte, and had not even been aware that he was a former Member until the issue was raised at the hearing.

13. The Tenants then argued that Member Debski, who presided on May 1, 2024, may have been biased because they may have known Mr. Kyte while he was a Member.

14. The problem with the Tenants' argument is that Member Debski did not make any decision in this proceeding, other than to grant the parties' consent request to adjourn the L9 and schedule it to be heard with the T2. The Tenants do not seek to challenge that decision. They have not identified any other decision made in the proceeding that could have been tainted by an apprehension of bias.

15. In short, the Tenants did not make any request in relation to their apprehension that Member Debski might have been biased. There is nothing for me to decide.

<u>The Tenants' application</u>

16. The Tenants' application alleges that, from May through December 2023, "our landlord/agent (Rester)" substantially interfered with their reasonable enjoyment. The application was brought against Rester.

17. There is no dispute that the Tenants' landlord was 720745 Ontario Inc. The Tenants ask to amend their application to name 720745 Ontario Inc. as the respondent.

18. 720745 Ontario Inc., opposes the request. It argues that amending an application to be brought against a new respondent would be equivalent to bringing a new application against that respondent. Pursuant to section 29(2) of the RTA, an application cannot be brought more than one year after the alleged conduct giving rise to the application occurred. The Tenants filed their amendment request in 2026, more than one year after the alleged conduct occurred in 2023.

19. The Tenants concede that they named the wrong respondent. They say that they had not gotten legal advice at the time, and made a mistake. They argue that it would be fair to allow their claim to proceed against the Landlord.

Analysis

20. The Tenants' application is an application against Rester. Their proposed amendment would be equivalent to a new application against 720745 Ontario Inc. The proposed amendment was filed in 2026, more than one year after an application against 720745 Ontario Inc. could have been filed.

21. In some circumstances, the doctrine of misnomer can apply to permit an amendment of a respondent's name after a limitation period has passed. Misnomer applies if it is apparent that (1) the applicant intended to name the proposed respondent, and (2) the intended respondent knew that it was the intended respondent in relation to the application.

22. The Tenants' amendment request was poorly argued. I repeatedly asked their representative for submissions on how the law could allow the amendment. The representative failed to make any legal argument, and instead simply reiterated that the Tenants had made a mistake and should be allowed to proceed with their application. Specifically, the Tenants' representative did not rely on the doctrine of misnomer. She did not offer any evidence or submission to establish either that the Tenants intended to name 720745 Ontario Inc., or that 720745 Ontario Inc. knew that it was the intended respondent.

23. The Tenants' representative did argue that 720745 Ontario Inc. was aware of the mistake and "planned to use it against them." Certainly, there is no dispute that 720745 Ontario Inc. was aware of the application and aware that it was not a respondent to the application. However, the Tenant's representative did not suggest that 720745 Ontario Inc. was aware that, by naming Rester, the Tenants intended to name 720745 Ontario Inc.

24. The Tenants have not established that misnomer applies, and I therefore find that their proposed amendment would be equivalent to a new application against 720745 Ontario Inc., made outside the limitation period. The amendment request is therefore denied, and Rester remains the respondent.

25. Since the parties agree that Rester is not a proper respondent, the application against Rester is dismissed.

<u>The Landlord's application</u>

26. There is no dispute that the Tenants gave notice on November 10, 2023 to end their tenancy effective December 31, 2023.

27. The Tenants say that they offered to pay the Landlord an extra 10 days' rent. They argue that that is all they should be required to pay, because their notice was only 10 days late.

28. There is no merit to the Tenants' argument. Section 88(1)(1) of the RTA provides that, where the Tenants vacated after giving an invalid notice, arrears of rent are owing up to the earliest termination date that could have been specified in the notice. On November 10, 2023, the Tenants could have given a valid notice for January 31, 2024 at the earliest. Consequently, they owe rent to the end of January.

29. The only real dispute is whether, pursuant to section 88(4) of the RTA, the Landlord took reasonable steps to minimize its losses resulting from the short notice.

30. Mr. Kyte testified that, after the Tenants vacated on December 31, the Landlord painted the unit and did minor repairs. It then advertised the unit as available for rent as of February 1, 2024. It did not find a new tenant until June, 2024, but it is only claiming rent until January 31, 2024. Mr. Kyte testified that the Landlord always takes some time to prepare a unit for a new tenant. It would not have considered renting the unit for January 1, 2024 because one day would not have been enough time to prepare the unit.

31. On the evidence before me, I am satisfied that the Landlord took reasonable steps to re-rent the unit. While I am aware that some landlords re-rent units with no gap between tenants, this Landlord prefers to take a few days to repaint and prepare units. In my view, both approaches are reasonable. It was reasonable that the Landlord did not try to re-rent the unit for January 1.

32. It was also reasonable for the Landlord not to try to commence a new tenancy mid-month. Tenancies most often commence on the first of a month. While some landlords are willing to start tenancies mid-month, this Landlord was not and I find that approach to be reasonable.

33. The Landlord took reasonable steps, and as a result, the unit was ready to be re-rented as of February 1. It was reasonable that the Landlord did not take any other steps to minimize the rent it lost for January.

34. Therefore, the last month's rent deposit is applied to the rent for January, 2024. The Tenants owe rent arrears of $1,691.00 for December, 2023.

35. The Tenants also owe the Landlord its filing fee of $186.00 for this application. There is no interest owing on the rent deposit. An order will issue accordingly.

It is ordered that:

1. The Tenants shall pay to the Landlord $1,877.00, which represents the rent owing to the end of the tenancy and the cost of the application, less the rent deposit and interest owing.
2. If the Tenants do not pay the Landlord the full amount owing on or before April 25, 2026, the Tenants will start to owe interest. This will be simple interest calculated from April 26, 2026 at 4.00% annually on the balance outstanding.

April 14, 2026
Date Issued

Dale Whitmore
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.