



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

File Number: LTB-T-107406-25

In the matter of: 27 WILSON ST
MARKHAM ON L3P1M9

Between: Yuanyuan Liu Tenant

And

2690623 ONTARIO INC. Landlord

Yuanyuan Liu (the 'Tenant') applied for an order determining that 2690623 ONTARIO INC. (the 'Landlord') collected or retained money illegally.

This application was heard by videoconference on March 30, 2026.

Only the Tenant attended the hearing.

As of 9:34 a.m., the Landlord was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Tenant's evidence.

Preliminary Issue:

1. The Tenant brought this application pursuant to section 135 of the *Residential Tenancies Act, 2006* (the 'Act') alleging that the Landlord collected and retained a last month's rent deposit in the amount of \$2,000.00, a key deposit of \$200.00 and partial rent (17 days) in the amount of \$1,161.29 for the month of January 2024.
2. Section 135(1) of the Act states in part that a tenant or former tenant of a rental unit may apply to the Board for an order that the landlord pay to the tenant any money the person collected or retained in contravention of this Act.
3. Section 135(4) of the Act states that no order shall be made under this section with respect to an application filed more than one year after the person collected or retained money in contravention of this Act.
4. As a preliminary issue, I raised the concern that the Tenant's application could be statute barred, as the Tenant appeared to have filed the application more than one year after the Landlord allegedly retained the Tenant's money illegally.

5. The following facts were confirmed by the Tenant at the hearing. The Tenant paid a last month's rental deposit on August 31, 2023 of \$2,000.00. The Tenant moved into the rental unit on September 1, 2023. The rental unit was destroyed by fire on January 14, 2024 and the Tenant was forced to find a new place to live. The Tenant never moved back into the rental unit post-fire.
6. The Tenant filed the application on December 20, 2025 and indicated that they understood that they had two (2) years in order to file their claim with the LTB.

Analysis

7. The Tenant submitted that the tenancy ended on January 14, 2024 by virtue of the fire, as the rental unit was extensively damaged. There was no evidence provided that a notice of termination or an agreement to terminate was entered into by the parties after the fire.
8. Given that there was no apparent agreement to terminate the tenancy, I must examine whether the tenancy agreement was frustrated as a result of the fire.
9. Section 19 of the Act provides that the doctrine of frustration of contract and the *Frustrated Contracts Act* apply with respect to tenancy agreements.
10. Section 3 of the *Frustrated Contracts Act* states:

The sums paid or payable to a party in pursuance of a contract before the parties were discharged,

(a) in the case of sums paid, are recoverable from the party as money received for the use of the party by whom the sums were paid; and

(b) in the case of sums payable, cease to be payable.

11. What this means is that where a tenancy agreement is frustrated, the agreement to pay rent in return for the right to occupy the rental unit is over. Any rent paid for the post-frustration period is refundable to the tenant, who owes no further rent.
12. In *Barnaby v. Salamander Opportunities et al*, 2018 ONSC 5749, the Divisional Court confirmed that for the doctrine of frustration, each of the following must be met:
 - First, an unexpected event that was not contemplated in the contract or foreseeable must occur.
 - Second, the unexpected event cannot be self-induced or the fault of one of the parties
 - Third, the event must drastically change the nature of the contract so that it is impossible (not just difficult or expensive) to perform the obligations under the contract. The impossibility of performance must be of a long-term nature and not temporary or transient.

13. Based on the uncontested evidence before me, I find that the tenancy agreement was frustrated by the fire that took place on January 14, 2024. The fire was unexpected by the parties. Given the extent of the damage, the resumption of the tenancy would be significantly protracted and not reasonably foreseeable. The seriousness of the fire made the terms of the tenancy agreement impossible to perform. There is no evidence suggesting that the fire was the fault of either the Landlord or the Tenant.
14. As the fire caused the tenancy agreement to become frustrated, there was no landlord and tenant relationship beyond January 14, 2024.
15. A last month's rent deposit and key deposit are collected for the purpose of applying it to an obligation that comes due at a future point in time. In other words, the intention of the parties is that the Landlord will retain that money and apply it on a date in the future.
16. If the Landlord does not apply the money as contemplated by the Act, it is the Landlord's obligation to return the money to the Tenant when the tenancy ends.
17. The one-year limitation period in s. 135(4) of the Act starts to run on the date when retention becomes improper. In other words, the limitation period starts to run when the landlord does something wrong like failing to apply a deposit to the rent due for the last month of a tenancy, collecting illegal rent, or returning a key deposit.
18. Section 135(4) of the Act provides that the application must be filed within one year of the money being collected or retained improperly. Since the money at issue in this application, that being the last month's rent, key deposit and portion of January 2024's rent, was retained in contravention of the Act on January 14, 2024, the day the tenancy ended and the Landlord was obligated to return the retained funds, the Tenant was required to bring their application within one year of that date. This was not done and, thus, the Tenant's application is statute barred.

It is ordered that:

1. The Tenant's application is dismissed.

April 15, 2026
Date Issued

Curtis Smith
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.