



Order under Section 135 Residential Tenancies Act, 2006

File Number: LTB-T-104277-25

In the matter of: 1, 59 JASPER AVE
YORK ON M6N2N1

Between: DIANA KAREN MEDINA MEDINA Tenant

And

TONY SALIBA Landlord

Diana Karen Medina Medina (the 'Tenant') applied for an order determining that Tony Saliba (the 'Landlord') collected or retained money illegally. (T1 application)

This T1 application was heard by videoconference on March 31, 2026.

The Landlord and the Tenant attended the hearing. Also in attendance was Rita Saliba, who is the Landlord's spouse and was identified as a co-landlord. Rita Saliba did not make submissions but was present to support her husband. Tenant Duty Counsel did not enter the hearing room at any time. The Tenant was prepared to proceed understanding that Tenant Duty Counsel services are not guaranteed during the day of a hearing.

Determinations:

1. As explained below, the Tenant did not prove the allegations contained in the T1 application on a balance of probabilities. Therefore, the T1 application is dismissed.
2. Before me, the parties agreed on the following facts:
 - the Tenant originally was in the basement unit as of November 1, 2024 but moved into the rental unit on May 15, 2025;
 - the rent for the basement unit was \$2,200.00 and the Tenant had paid a \$2,200.00 last month's rent (LMR) deposit for that unit;
 - the tenancy for the rental unit was a month-to-month tenancy, and the rent was due on the first day of every month;
 - when the Tenant moved into the rental unit, she paid the Landlord an additional \$600.00 to bring the LMR deposit to \$2,800.00;
 - the Tenant moved out of the rental unit on September 30, 2025;
 - the Tenant paid all monthly rents including the month of September 2025; and
 - the Landlord did not return the LMR deposit to the Tenant.

3. From this, I find the tenancy for the rental unit, which is the subject of this T1 application, began on May 15, 2025.
4. The Tenant testified that when she moved into the rental unit, it was to include her then-boyfriend who joined the Tenant and the Tenant's mother as an occupant. The Tenant stated that there were some problems between her boyfriend and the Landlord and that the Landlord essentially said if they were not happy with the rental unit, then they could leave. This was in the late September 2025 timeframe. The Tenant said that because the Landlord basically agreed to let them leave, they did so on September 30, 2025. However, the LMR deposit was never used and never returned to the Tenant after they moved out.
5. The Landlord testified that on September 26, 2025, he spoke with the Tenant's boyfriend about all of the roofing materials the boyfriend had stored in the back yard and on the driveway of the rental unit property. The Landlord told the boyfriend that either they pay something extra for storage or those materials needed to be removed and stored elsewhere. He testified the boyfriend was not at all happy with the Landlord's position, stating he needed the room for his materials. The Landlord testified he told the boyfriend that if he was not happy, and if the Tenant were not happy, then the Tenant must give the Landlord 30-60 days' prior notice that they wanted to leave.
6. The Landlord led two exhibits into evidence to support his testimony. Exhibit LL#1 is a copy of the September 26, 2025 text message sent by the Tenant to the Landlord's wife, Rita Saliba. In that text message, the Tenant informs Ms. Saliba that the Landlord told "*us to leave if we didn't like his rules*" and so "*we will be leaving at the end of the month*". Exhibit LL#2 is a copy of the Landlord's September 29, 2025 text message exchange with the Tenant. In that text message, the Landlord asked for clarification whether the Tenant was leaving the end of September or the end of October, and gave the Tenant notice that he would start showing the rental unit to potential, new tenants on October 1, 2025. The Tenant's reply in LL#2 states the Tenant was moving out September 30, 2025 and was seeking reimbursement of her LMR deposit.
7. The Landlord confirmed that he was able to re-rent the rental unit to new tenants with a start-date of November 1, 2025.
8. Based on the testimonies of the parties before me, I find that on a balance of probabilities there was no agreement between the Tenant and the Landlord to terminate the tenancy on September 30, 2025.
9. The best evidence before me suggests the more likely situation that all along, the Landlord wanted proper prior notice of tenancy termination. The Tenant's testimony about the Landlord agreeing to terminate the tenancy on September 30, 2025, was without any evidentiary support. The Tenant's testimony was essentially indirect evidence as she was unable to corroborate what she believed her boyfriend's discussion with the Landlord had been about. The Landlord's testimony was direct evidence as he recounted his exchange with the Tenant's boyfriend firsthand. I was given no reason to believe the Landlord's direct testimony was not credible or reliable. As well, the two exhibits submitted into evidence supported much more the Landlord's version of events over the version the Tenant had provided.

10. Sections 44 and 47 of the *Residential Tenancies Act, 2006* (the 'Act') allow a tenant to terminate a tenancy at the end of a period of the tenancy or at the end of the fixed term by giving 60 days' notice to the landlord.
11. Here, with the tenancy being a month-to-month tenancy, I find the Tenant's texted notice was a 60 days' notice, therefore her claim of terminating the tenancy on September 30, 2025, did not comply with the Act. To be clear, the requirement to give a minimum of 60 days' notice is a strict statutory requirement.
12. As the Tenant's texted notice was not in compliance with the Act and the Landlord did not agree to terminate the tenancy on September 30, 2025, I then looked to subsection 88(1)1. of the Act so I might determine how to deal the Tenant's moving-out without proper notice.
13. Section 88 of the Act states:

"88 (1) If a tenant abandons or vacates a rental unit without giving notice of termination in accordance with this Act and no agreement to terminate has been made or the landlord has not given notice to terminate the tenancy, a determination of the amount of arrears of rent owing by the tenant shall be made in accordance with the following rules:

- 1. If the tenant vacated the rental unit after giving notice that was not in accordance with this Act, arrears of rent are owing for the period that ends on the earliest termination date that could have been specified in the notice, had the notice been given in accordance with section 47, 96 or 145, as the case may be.*
- 2. If the tenant abandoned or vacated the rental unit without giving any notice, arrears of rent are owing for the period that ends on the earliest termination date that could have been specified in a notice of termination had the tenant, on the date that the landlord knew or ought to have known that the tenant had abandoned or vacated the rental unit, given notice of termination in accordance with section 47, 96 or 145, as the case may be."*

14. For clarity, the references to section 96 and 145 of the Act above do not apply to this case. Section 96 of the Act relates to a tenant who attempts to assign a tenancy. Section 145 of the Act relates to a tenant living in a care home who wishes to terminate a care home tenancy. Subsection 88(1)2. of the Act (as set out above) does not apply to this case because that subsection only applies when a tenant does not give any notice at all to terminate a tenancy.
15. In the matter before me, the Tenant vacated after giving notice that was not in accordance with the Act. As such, arrears are calculated to the earliest date that proper notice could have been given. This is a monthly tenancy running from the first day of each month to the last day of each month. So, the termination date must be the last day of a month and at least 60 days after notice was given. Therefore, the earliest termination date that could have properly been listed on a notice of termination given on September 26, 2025 was November 30, 2025.
16. In parallel with subsection 88(1)1., subsection 88(4) and section 16 of the Act also require the LTB to consider whether the Landlord took reasonable steps to mitigate his losses. I was satisfied that the Landlord attempted to mitigate his losses by trying to re-rent the

rental unit starting on October 1, 2025 (LL#2) and the Landlord confirmed he found new tenants to start a new tenancy on November 1, 2025.

17. Given that the tenancy was not lawfully terminated, the Tenant remained liable for rent up to the earliest proper termination date. Since the Landlord was able to secure a new tenancy effective November 1, 2025, the Tenant's liability is determined to extend to October 31, 2025.

18. Therefore, I find the Landlord did not illegally retain the Tenant's LMR deposit, and applied it correctly to the month of October 2025. The Tenant's T1 application is therefore denied.

It is ordered that:

1. The Tenant's T1 application is dismissed.

April 16, 2026
Date Issued

Alex Brkic
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.