



Order under Section 135 Residential Tenancies Act, 2006

File Number: LTB-T-108050-25

In the matter of: B, 25 Sarnia Ave
Toronto ON M6P3P4

Between: Rosina Chiappetta Tenant
Jake Chiappetta

And

Joshua Allen Landlord

Rosina Chiappetta and Jake Chiappetta (the 'Tenant') applied for an order determining that Joshua Allen (the 'Landlord') collected or retained money illegally.

This application was heard by videoconference on April 9, 2026.

The Landlord and the second-named Tenant, Jake Chiappetta (JC), attended the hearing.

Determinations:

1. The Tenants filed a T1 application on December 18, 2025, alleging that the Landlord charged and collected money contrary to the *Residential Tenancies Act, 2006, S.O. 2006, c. 17* (Act).
2. The parties entered into a tenancy agreement on October 12, 2025, for a lease commencing on November 1, 2025, at a monthly rent of \$1,800.00.
3. JC testified that the rental unit was intended for the first-named Tenant, his mother, and that he signed the lease as a cotenant to support her application. He testified that, when the lease was signed, the Landlord required first month's rent and an additional two months of rent up front because his mother did not have stable income. JC paid \$1,800.00 up front when he signed the lease. After signing, he obtained legal advice and was told that the requirement for an additional two months of rent was contrary to the Act. He therefore informed the Landlord on October 27, 2025, that he would not proceed with the lease or move into the unit because of that term. A copy of the lease agreement was entered into evidence.
4. The Landlord testified that, once JC informed him on October 27, 2025, that they did not wish to continue with the tenancy, he immediately reposted the rental unit and began

looking for a new tenant. The Landlord also submitted a copy of a text message exchange with a prospective candidate who intended to view the unit on October 28, 2025.

5. The Landlord further testified that, on November 4, 2025, he informed the Tenants that he would no longer require the additional two months of rent and would provide vacant possession if they paid only the first and last month's rent. On November 6, 2025, JC and his mother attended the rental unit to inspect it. The Landlord testified that, after that visit, JC informed him that his mother was not satisfied with the rental unit, that they had decided not to move in, and that they wanted the \$1,800.00 returned.
6. There is no dispute that the Landlord re-rented the unit on November 22, 2025, and that the new tenant moved in on that date. There is also no dispute that the parties signed an N11 agreement terminating the tenancy effective December 12, 2025.

Analysis:

7. Section 106 of the Act states:

(1) A landlord may require a Tenant to pay a rent deposit with respect to a tenancy if the landlord does so on or before entering into the tenancy agreement. 2006, c. 17, s. 106 (1).

(2) The amount of a rent deposit shall not be more than the lesser of the amount of rent for one rent period and the amount of rent for one month.

8. Section 107(1) of the Act states:

A landlord shall repay the amount received as a rent deposit in respect of a rental unit if vacant possession of the rental unit is not given to the prospective tenant. 2006, c. 17, s. 107 (1)

9. Section 106 of the Act permits a landlord to require a rent deposit, but that deposit cannot exceed one rent period or one month's rent. To the extent the lease purported to require an additional two months of rent up front, that term was contrary to the Act and was unenforceable. However, that unlawful term did not make the entire tenancy agreement void.
10. Based on the evidence before me, I find that a binding tenancy agreement was formed between the parties. The evidence shows that JC viewed the rental unit before October 12, 2025, and that the parties signed a standard form lease. Although the lease included an unlawful term respecting additional money up front, the Tenants could not unilaterally cancel the lease on October 27, 2025, just before the commencement date, and treat the tenancy agreement as though it never existed.
11. I also find that the Landlord provided vacant possession of the rental unit once he agreed to proceed without the unlawful additional payment requirement. After that, the Tenants chose not to move into the unit following their inspection on November 6, 2025.

12. Therefore, the Landlord is not required to repay the rent deposit in full. I am satisfied that the parties later agreed to terminate the tenancy by signing an N11 with a termination date of December 12, 2025, and that the Tenants were responsible for rent until that date. However, as the evidence establishes that the unit was re-rented on November 22, 2025, the Tenants cannot be held responsible for rent after November 21, 2025. There cannot be two simultaneous tenancies for the same rental unit.
13. Under section 16 of the Act, the Landlord had a duty to mitigate his losses. I am satisfied that he did so. The Landlord reposted the rental unit on October 28, 2025, and began showing it immediately after being informed that the Tenants did not wish to proceed. I find it was reasonable for the Landlord to re-rent the unit within approximately one month. I also accept the Landlord's evidence that the new rent was reduced to \$1,700.00 in order to secure a new tenant more quickly and mitigate losses.
14. In the circumstances, I find it appropriate to hold the Tenants responsible for rent up to November 21, 2025. The Landlord must therefore repay the portion of the \$1,800.00 paid up front that relates to the period from November 22, 2025, to November 30, 2025, being nine days. The daily rate is \$59.18, calculated as \$1,800.00 multiplied by 12 and divided by 365 days. For nine days, the amount owing is \$532.62.
15. Accordingly, the Landlord shall pay the Tenants \$532.62.

It is ordered that:

1. The total amount the Landlord shall pay the Tenant is \$532.42. This amount represents:
 - \$532.42 for excess rent collected from November 22 to November 30, 2025.
2. The Landlord shall pay the Tenant the full amount owing by April 28, 2026.
3. If the Landlord does not pay the Tenant the full amount owing by April 28, 2026, the Landlord will owe interest. This will be simple interest calculated from April 29, 2026, at 4.00% annually on the balance outstanding.
4. The Tenant has the right, at any time, to collect the full amount owing or any balance outstanding under this order.

April 17, 2026
Date Issued

Joy Xiao
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.