



Order under Section 135 Residential Tenancies Act, 2006

Citation: Thakur v Manor Park Management, 2026 ONLTB 30604

Date: 2026-04-16

File Number: LTB-T-032697-25

In the matter of: 505, 52 Bayswater Avenue
Ottawa Ontario K1Y4K3

Between: Vikram Thakur Tenant

And

Manor Park Management Landlord

Vikram Thakur (the 'Tenant') applied for an order determining that Manor Park Management (the 'Landlord') collected or retained money illegally.

This application was heard by videoconference on October 27, 2025. The Tenant, the Landlord's agent, Mohit Moudgil, and the Landlord's legal representative, Grace George, attended the hearing.

Determinations:

Preliminary Issue – Landlord's late submission of evidence

1. The Tenant submitted that the Landlord's evidence brief was served three days prior to the hearing and therefore did not comply with the Landlord and Tenant Board's Rules of Procedure (the "Rules"). The Tenant requested that the late-filed evidence be excluded or, in the alternative, afforded little weight.
2. The Landlord's legal representative acknowledged that the evidence was not served within the timelines set out in the Rules. She explained that the delay resulted from a miscommunication with her client regarding the hearing date and that the evidence was served promptly upon becoming aware of the hearing. She submitted that there was minimal prejudice to the Tenant because the evidence primarily consisted of email correspondence exchanged between the parties.
3. The Landlord's document brief consists of approximately sixteen pages of email correspondence. The Tenant conceded that many of these emails were also included in the Tenant's own evidence.

4. Pursuant to Rule A3, the Rules are to be interpreted liberally and purposively to promote the fair, just, and expeditious resolution of disputes. I find there is minimal prejudice to the Tenant in permitting the Landlord to rely on the late-filed evidence, particularly where the Tenant relies on much of the same material. Accordingly, I permitted the Landlord to rely on the evidence brief, subject to my determination of its relevance and weight.

The T1 application

5. The Tenant's application alleges that after the Tenant entered into the tenancy agreement, the Landlord did not allow them to move into the rental unit and did not return the money they paid as a deposit.
6. The facts of this matter are largely undisputed and are as follows:
 - The Tenant was living in another rental unit in the same residential complex with friends and had applied for a transfer to the subject unit.
 - The Landlord offered the Tenant the subject unit and the parties entered into a lease agreement to commence on June 1, 2024.
 - The Tenant paid a last month rent deposit in the amount of \$1,800.00 on April 30, 2024, and was provided with keys to the unit on May 30, 2024. The Tenant did not remit payment of the rent required for the first month of the tenancy.
 - The Tenant inspected the unit on May 30, 2024, and found that the kitchen cabinets did not close properly and that the kitchen drawers lacked the safety stop which prevented the drawers from being pulled all the way out. The Tenant felt these defects were safety issues and informed the Landlord of the issues on both May 30 and 31, 2024.
 - The Tenant moved some of their belongings into the unit on or about June 1, 2024
 - On June 5, 2024, the Landlord inspected the unit and on June 6, 2024, the Landlord offered to replace the top and bottom kitchen cabinetry. The Landlord advised the Tenant that the work would be scheduled and completed before June 30, 2024.
7. The Tenant testified that he felt the unit was uninhabitable and that he and his family would not feel safe using the kitchen. Additionally, the Tenant was concerned about living in the unit through a renovation. The Tenant advised the Landlord they would live temporarily stay with their friends in their former unit until the work was completed and requested that the Landlord pro-rate their rent for June up until the date the kitchen work was completed.
8. The Landlord testified that replacing the cabinetry in the kitchen would require only six to eight hours work as it involved simply removing the old cabinets and installing new cabinets that were preassembled. The Landlord could not complete this work immediately due to the schedule of their contractor. The Landlord disputes that the kitchen was unusable due to the issues with the cabinetry and declined the Tenant's request to pay only the prorated rent for June. The Landlord then presented the Tenant with two options. The first option was for the Tenant to honour the lease agreement, and the Landlord would

proceed as planned with replacing the kitchen cabinetry as soon as possible. The second option was a mutual agreement to end the tenancy agreement.

9. The Tenant elected to cancel the lease agreement and the parties signed an N11 Agreement to End the Tenancy with a termination date of June 9, 2024.

The Law and Analysis

10. Section 107 of the Residential Tenancies Act, 2006 (the 'Act') address this allegation made by the Tenant and states the following:

A landlord shall repay the amount received as a rent deposit of a rental unit if vacant possession of the rental unit is not given to the prospective tenant.

11. The decision of the Ontario Court of Appeal in *Musilla v Avcan Management Inc.*, 2011 ONCA 502 provides guidance on the interpretation of section 107 of the Act. Starting at paragraph 8:

[8] The Board and the Divisional Court held that s. 107(1) requires a landlord to return a rent deposit only if vacant possession is refused by the landlord. Where there is an agreement for a rental of a residence and the tenant does not take possession of the residence when offered, the landlord is entitled to retain a rent deposit in accordance with the provisions of the rental agreement.

[9] We agree with the reasons of the Divisional court that s. 107(1) of the Act does not authorize a tenant to obtain the automatic return of a rent deposit where the landlord has done everything necessary to give the possession of the lease premises and the tenant has unilaterally repudiated the rental agreement.

[10] In particular, we agree with the following observation [at para 22]:

When one looks at the words of section 107(1), it is notable that the landlord is to return the deposit if vacant possession is not given to the prospective tenant. The words "not given" suggest that it is the refusal or inability of the landlord to provide the premises that triggers the obligation to return the deposit to the prospective tenant.

[11] This interpretation accords with common sense and fairness. To permit a tenant, who is legally obligated to take possession, to regain a rent deposit where the landlord has done everything it was required to do in order to give possession would render meaningless the concept of a rent deposit to secure the tenant's obligation to pay rent.

12. Accordingly, the only question before the Board on the present matter is did the Tenant unilaterally repudiate the rental agreement?

Did the Tenant unilaterally repudiate the tenancy agreement?

13. Based on the evidence and testimony before me, I find that there was a tenancy agreement in place when the Tenant sought the return of their rent deposit. It was undisputed that the parties signed a lease agreement which commenced on June 1, 2024. I am satisfied there was a mutual understanding and agreement by the parties on the essential terms of the tenancy. The Landlord gave the Tenant the keys and the Tenant moved some personal belongings into the unit. Therefore, I find that the Landlord gave vacant possession of the unit to the Tenant.
14. I do not find that the rental unit was uninhabitable as characterized by the Tenant. The issues identified with the kitchen cabinetry were largely cosmetic. While the Tenant expressed concern that upper cupboards that did not fully close could lead to a pest infestation, no rational connection was established between this condition and the presence of pests. The Tenant did not allege that pests were present in either the rental unit or the residential complex. With respect to the kitchen drawers lacking a stop mechanism, I accept that this presented a minor safety concern if heavily loaded; however, the Tenant was aware of this issue and could have used alternate storage for the short period between move-in and the Landlord's planned replacement of the cabinetry. The Tenant provided no further evidence that the kitchen was non-functional and testified that all appliances were in working order.
15. I also do not find that the scheduled replacement of the kitchen cabinetry was so intrusive as to require the Tenant to vacate the rental unit. I accept the Landlord's evidence that the work would take approximately six to eight hours. While this may have caused some inconvenience, it did not necessitate the Tenant vacating the unit.
16. However, in determining whether the Tenant unilaterally repudiated the tenancy agreement, I must consider whether the Landlord agreed to terminate the tenancy. In this case, it was undisputed that the parties entered into an N11 Agreement to End the Tenancy, with a termination date of June 9, 2024. As a result, the Landlord is not entitled to retain the Tenant's last month's rent deposit on the basis of repudiation, as the Landlord agreed to end the tenancy. Pursuant to subsection 106(10) of the Act, the Landlord must apply the last month's rent deposit to the rent owing for the final rental period.
17. Section 107 of the Act requires the return of a rent deposit only where a landlord fails to give vacant possession, which I have found did not occur in this case. However, once the parties mutually agreed to terminate the tenancy by entering into an N11 Agreement, the Landlord was no longer entitled to retain the Tenant's last month's rent deposit as a consequence of repudiation. Pursuant to subsection 106(10) of the Act, the deposit may only be applied to rent owing for the final rental period, and any remaining balance must be returned to the Tenant.
18. The Tenant had possession of the rental unit from June 1, 2024, to June 9, 2024, and is therefore responsible for rent for that period. The daily rent for the unit is \$59.18, calculated as follows: \$1,800.00 multiplied by 12 months, divided by 365 days. Accordingly, the Landlord may apply \$532.62 from the Tenant's last month's rent deposit toward rent for the final rental period and must return the remaining \$1,267.38 to the Tenant.

19. have considered all of the evidence presented at the hearing and all of the oral testimony and although I may not have referred to each piece of evidence individually or referenced all of the testimony, I have considered it when making my determinations.
20. This order contains all of the reasons for the decision within it and no further reasons will be issued.

It is ordered that:

1. The total amount the Landlord shall pay the Tenant is \$1,315.38. This amount represents:
 - \$1,267.38 for excess rent collected.
 - \$48.00 for the Tenant's cost to file the application.
2. The Landlord shall pay the Tenant the full amount owing by May 16, 2026.
3. If the Landlord does not pay the Tenant the full amount owing by May 16, 2026, the Landlord will owe interest. This will be simple interest calculated from May 17, 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 16, 2026
Date Issued

Melissa Anjema
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.