



Order under Section 135 Residential Tenancies Act, 2006

File Number: LTB-T-107933-25

In the matter of: 105, 955 10TH St East
Owen Sound ON N4K1T5

Between: Peter Klinger Tenant

And

Skyline Real Estate Holdings Inc Landlord

Peter Klinger ('PK' or the 'Tenant') applied for an order determining that Skyline Real Estate Holdings Inc ('SREH' or the 'Landlord') collected or retained money illegally. (T1 application)

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

The Tenant and the Landlord's Legal Representative, Shannon Kiekens ('LLR'), attended the hearing. The Tenant consulted with Tenant Duty Counsel prior to the commencement of the 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 application is dismissed.
2. The Tenant testified that the rental unit tenancy commenced on September 1, 2017 and is still an active tenancy. He stated the current rent the Landlord is charging as of February 1, 2026 is \$989.54.
3. At the hearing, the Tenant informed me the Landlord is in the process of an Above-Guideline-Increase (AGI) application before the LTB, but the AGI application has yet to result in any decision or order. Nevertheless, the Landlord has continued to increase rents through the LTB's Notice of Rent Increase (NORI) form N1, the first N1 having taken effect on February 1, 2025 and latest N1 having taken effect on February 1, 2026.
4. The Tenant indicated he filed the T1 application in an attempt to recover the overpayments in rent he has been making since the Landlord's first N1 which went over the provincial guideline amount.
5. In support of his testimony, the Tenant led the following exhibits into evidence:

- exhibit TT#1 (copy of his redacted bank statements from January 1/2024 to February 1/2026, to evidence his rent payments);
 - exhibit TT#2 (copy of two October 2024 letters by the Landlord, one in particular dealing with the NORI issued); and
 - exhibit TT#3 (copy of the Tenant's December 10/2025 letter to the Landlord in which he stated he was not aware of any AGI application, he stated the LTB confirmed there was no AGI application, and he set out the claimed overpayments in rent he had made).
6. LLR submitted that the Landlord filed an AGI application with the LTB in December 2023 under case file no. LTB-L-096190-23 (the L5 application). She stated the L5 application seeks a 9% rent increase in respect of capital expenditures (CapEx) the Landlord is seeking reimbursement for. To date, the LTB has not scheduled any hearing between the parties, and the Landlord continues to wait on the LTB.
 7. LLR stated an Adjudicative Case Conference will likely be scheduled first (which is a hearing to see whether the parties can reach a mutual settlement). If the case conference fails to produce a settlement, then the LTB will then reschedule the L5 application for a merits hearing sometime afterward.
 8. In the meantime, LLR submitted a landlord, who is awaiting an LTB order on an L5 application, has the lawful right to issue an NORI for the higher amount which approval is being sought. Further, she stated that under subsection 126(6) of the *Residential Tenancies Act, 2006* (the 'Act'), a tenant has the lawful right either to voluntarily pay the higher amount or to not pay it.
 9. LLR referred to the second October 2024 letter in TT#2 which has the Landlord informing the Tenant that he can choose not to pay the higher rent amount. The Tenant replied that the wording in that letter made it unclear to him that he could refuse to pay the higher amount without leading him to breach his tenant obligation to pay rent.

Analysis

10. I note the Tenant's exhibit TT#3 states the Tenant was told by the LTB that the Landlord had not filed any AGI application. I am unable to understand how that might have happened as the Landlord's L5 application LTB-L-096190-23 was filed with the LTB on December 4, 2023. I can only guess that something was misunderstood somewhere along the way.
11. I make reference to section 126 of the Act, which permits a landlord to claim a rent increase greater than the provincial guideline amount pursuant to section 120 of the Act, specifically in respect of AGI applications.
12. Subsection 126(5) of the Act provides that when a landlord has filed an AGI application and it has not yet been approved by the LTB, the landlord is entitled to seek, but may not require payment of, the AGI amount so long as proper notice of rent increase has been provided to the tenant.

13. Subsection 126(6) of the Act then provides a tenant the choice to either pay their rent plus the provincial guideline increase or their rent plus the AGI amount sought by the landlord. If the tenant chooses to pay the new AGI rent, and the landlord's AGI is not approved or only approved in part, the landlord then owes the tenant any overpayments they may have made based on the underlying NORI form N1. Alternatively, if the tenant chooses not to pay the AGI amount, they may owe the landlord additional rent if an AGI order issues:

14. For quick reference, subsections 126(5) and 126(6) of the Act state:

"126(5) If an application is made under this section and the landlord has given a notice of rent increase as required, until an order authorizing the rent increase for the rental unit takes effect, the landlord shall not require the tenant to pay a rent that exceeds the lesser of,

(a) the new rent specified in the notice; and

(b) the greatest amount that the landlord could charge without applying for a rent increase.

126(6) Despite subsection (5), the tenant may choose to pay the amount set out in the notice of rent increase pending the outcome of the landlord's application and, if the tenant does so, the landlord shall owe to the tenant any amount paid by the tenant exceeding the amount allowed by the order of the Board."

15. I note that a notice for an AGI rent increase must be provided in accordance with subsections 116(1) and (3) of the Act. These sections provide:

"116 (1) A landlord shall not increase the rent charged to a tenant for a rental unit without first giving the tenant at least 90 days written notice of the landlord's intention to do so.

116 (3) The notice shall be in a form approved by the Board and shall set out the landlord's intention to increase the rent and the amount of the new rent. "

16. During the hearing, there was no dispute that the two NORIs (N1s) that were issued by the Landlord to the Tenant in October 2024 and in October 2025 complied fully with subsections 116(1) and (3) of the Act.

17. I read the Landlord's second October 2024 letter (in TT#2) and agree with the Tenant's submission before me that the wording was not explicit in the sense that the option to not pay the AGI increased amount was not clearly set out. That is, if the Tenant has opted not to pay the higher amount, nothing was provided in the letter about what the provincial guideline increase amount would have been.

18. Turning to the LTB's N1 form, I must note that a tenant's choice regarding payment of rent when a NORI is for an AGI amount that has not yet been approved is set out on the second page of the LTB's N1 Notice of Rent Increase form under 'Important Information About the Law'. It provides:

"3. If the rent increase needs approval by an order under the Residential Tenancies Act, 2006, the tenant is not required to pay more than the guideline increase until the order is issued. If the tenant only pays the guideline increase, the tenant may owe the landlord once the order is issued."

19. Unfortunately, I must also note that the LTB's N1 form does not have a space for a landlord to indicate what the provincial guideline increase will be if an AGI is not approved before the date of increase.
20. All this to say, I understand that the Tenant may not have understood his options clearly, but on the other hand, I find the Landlord did nothing incorrectly or unlawfully in serving the LTB's N1 forms on the Tenant for an AGI higher amount rent increase, or in explaining as it did the Tenant's option of not having to pay the higher amount.
21. Consequently, I find the Landlord did not collect rent in excess of the amount allowed by the Act and the claim in the T1 application must be denied.

It is ordered that:

1. The Tenant's T1 application is dismissed.

April 21, 2026
Date Issued

Alex Brkic
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.