



Order under Section 135 Residential Tenancies Act, 2006

Citation: Kaur v Mishra, 2026 ONLTB 31130

Date: 2026-04-21

File Number: LTB-T-090223-25

In the matter of: 4597, 4597 CATARACT AVE
NIAGARA FALLS ON L2E3M3

Between: Harleen Kaur Tenant

And

Nilesh Mishra Landlord

Harleen Kaur (the 'Tenant') applied for an order determining that NILESH Mishra (the 'Landlord') collected or retained money illegally.

This application was heard by videoconference on April 14, 2026.

The Landlord and the Tenant attended the hearing.

Only Tenant attended the hearing.

As of 9:12 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.

Determinations:

1. As explained below, the Tenant did not prove on a balance of probabilities that the rent deposit was illegal, only that the key deposit was illegal, so the Landlord must return the key deposit pursuant to 134(1)(a) of the *Residential Tenancies Act, 2006* (*the Act*).

Tenant's Evidence

2. The Tenant testified that on October 5, 2025, she signed a lease to rent the above rental unit in Niagara Falls, Ontario starting November 1, 2025.
3. The monthly rent was \$900.00 and it was due on the first day of the month.

4. She paid the key deposit of \$200.00 by e-transfer on October 7, 2025 (Exhibit 1) and a rent deposit of \$900.00 on October 9, 2025, also by e-transfer (Exhibit 2).
5. Her boyfriend was unable to find a job in Niagara Falls, so she cancelled the lease on October 10, 2025 via text message to the Landlord and never took possession of the unit.
6. She requested her deposit be refunded but did not receive a response from the Landlord.
7. The Tenant filed this application with the Board on October 27, 2025.
8. The Landlord did not attend the hearing, although duly served with the Notice of Hearing, so the Tenant's evidence remains uncontested.

Rent Deposit

9. Sections 105, 106(1) and 106(2) provide that a Landlord may collect a rent deposit, as long as it does not exceed one month's rent and the deposit is collected before the tenancy begins.
10. The tenancy was to begin November 1, 2025, and I find that the Landlord collected the rent deposit on October 9, 2025.
11. I find that the Landlord correctly collected one month's rent of \$900.00.
12. Subsection 107(1) of the Act requires that a landlord repay the amount received as a rent deposit if vacant possession of the rental unit is not given to the prospective tenant. In *Musilla v. Avcan Management Inc.*, 2010 ONSC 5425 (CanLII), the Court found that the word "not given" suggests that it is the refusal or inability of a landlord to provide the premises that triggers the obligation to return the deposit to the prospective tenant. In the present case, however, it was the Tenant's action in refusing to take the unit that prevented her from taking possession, not any act of the landlord. As such, the Tenant is bound by the agreement with the Landlord. She is not entitled to the return of the rent deposit pursuant to subsection 107(1) because it was her act of repudiation of the agreement that prevented her from taking possession of the unit, not the action of the Landlord. Therefore, the Landlord is entitled to keep the \$900.00 rent deposit.
13. Therefore this portion of the Tenant's claim is dismissed.

Key Deposit

14. Key deposits are prohibited under section 134(1)(a) of the Act. The Act states:

Unless otherwise prescribed, no landlord shall, directly or indirectly, with respect to any rental unit,

(a) collect or require or attempt to collect or require from a tenant, prospective tenant or former tenant of the rental unit a fee, premium, commission, bonus, penalty, **key deposit** or other like amount of money whether or not the money is refundable;

15. I find that the Landlord collected a \$200.00 key deposit on October 7, 2025 from the Tenant.

16. This money shall be refunded to the Tenant.

It is ordered that:

1. The total amount the Landlord shall pay the Tenant is \$248.00 This amount represents:
 - \$200.00 for the illegal key deposit.
 - \$48.00 for the cost of filing the application.
2. The Landlord shall pay the Tenant the full amount owing by May 2, 2026.
3. If the Landlord does not pay the Tenant the full amount owing by May 2, 2026, the Landlord will owe interest. This will be simple interest calculated from May 3, 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 21, 2026

Date Issued

Vanessa Davies

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.