



Order under Section 135 Residential Tenancies Act, 2006

File Number: LTB-T-058212-25

In the matter of: Basement, 363 PARKSIDE DR
TORONTO ON M6R2Z5

Between: Abigail Elise Frix Tenant

And

Modern City Real Estate Investment Trust Landlord
Company Ltd
Elia Mazzawi

Abigail Elise Frix (the 'Tenant') applied for an order determining that Modern City Real Estate Investment Trust Company Ltd, and Ella Mazzawi (the 'Landlord') collected or retained money illegally.

This application was heard by videoconference on February 25, 2026.

The Landlord, Landlord's legal representative Lisa Barder and the Tenant attended the hearing.

Preliminary Issue - Jurisdiction

1. At the hearing the Landlord's legal representative submitted that the Board lacks jurisdiction because the Tenant is, in substance, seeking a determination that the tenancy was terminated, which ought to have been pursued by way of an A2 application under s. 98 of the *Residential Tenancies Act, 2006* (the "Act"). The Landlord further submitted that a T1 application cannot be used to obtain such a determination.
2. The Tenant submitted that she is not seeking a determination terminating the tenancy. Rather, she seeks the return of the last month's rent deposit ("LMR"), accrued interest, and a pro-rated rent abatement. The Tenant relies on s. 135(1) of the Act and argues that this is an independent remedy from the assignment provisions in s. 95 and termination provisions in s. 98.
3. I am not persuaded by the Landlord's jurisdictional argument. While the issues in this application arise in the context of an attempted early termination following an assignment request, the Tenant's claim is framed as a monetary claim for the return of money allegedly improperly retained by the Landlord. Section 135(1) of the Act permits a tenant to apply for the return of money the landlord has collected or retained contrary to the Act.

4. Although the determination of whether the Landlord was entitled to retain the LMR necessarily requires consideration of whether and when the tenancy ended, this does not in itself, oust the Board's jurisdiction. The Board routinely makes incidental findings regarding the status of a tenancy where necessary to determine entitlement to a remedy under s. 135.
5. I therefore find that the Board has jurisdiction to hear the Tenant's T1 application. The Landlord's preliminary objection is dismissed.

Preliminary Issue – Validity of the N9 / Assignment Process

6. The Landlord submits that the Tenant's N9 is invalid because it was given within the 7-day period during which the Landlord was entitled to respond to the Tenant's request for assignment, and therefore the Tenant acted prematurely.
7. The Tenant submits that the Landlord, through its property manager, expressly refused the request for general consent to assign in an email dated April 21, 2025, and that she was therefore entitled to proceed with termination.
8. Section 95(1) of the Residential Tenancies Act, 2006 permits a tenant to request the landlord's consent to assign a rental unit.
9. Section 95(4)(a) provides that if the landlord refuses consent to the assignment, the tenant may terminate the tenancy by giving notice in accordance with the Act.
10. The Act does not require a tenant to wait out any portion of the 7-day period once a clear refusal has been communicated. The 7-day framework operates as a maximum response period it does not prevent a tenant from acting upon an earlier refusal.
11. In this case, the evidence establishes that the Tenant requested general consent to assign on April 20, 2025; and the Landlord's property manager responded on April 21, 2025.
12. Based on the content of that email, I find that the Landlord denied the Tenant's request to assign. While the Landlord suggests that it remained open to subletting, this does not constitute consent to assignment. Assignment and subletting are distinct legal mechanisms under the Act, and a refusal of one is not cured by an openness to the other.
13. I therefore find that the Landlord refused general consent to assign on April 21, 2025, within the meaning of s. 95(4)(a).
14. As a result, the Tenant's right to terminate the tenancy crystallized on that date.
15. Section 96(1) of the Act requires that a notice of termination following refusal be given within 30 days after the refusal. The Tenant's N9, served on April 27, 2025, was provided well within this statutory timeframe.
16. Accordingly, I find that the Tenant's N9 was not premature and was properly given in compliance with ss. 95 and 96 of the Act.
17. The Landlord's argument that the Tenant was required to wait the full 7-day response period is rejected. Once the Landlord communicated a clear refusal on April 21, 2025, the Tenant was entitled to rely on that refusal and proceed with termination.

Determinations:

1. As explained below, the Tenant proved the allegations contained in the application on a balance of probabilities. Therefore, the Landlord must pay to the Tenant \$2,182.96.

Rent deposit not applied to last month of tenancy

2. The Landlord did not use the Tenant's rent deposit to pay for the last rental period of the tenancy and did not return the deposit to the Tenant. This is prohibited by the *Residential Tenancies Act, 2006* (the 'Act').

Tenant's Evidence

3. The Tenant testified that the tenancy ended on May 27, 2025.
4. On April 19, 2025, the Tenant emailed the Landlord requesting permission to sublet the rental unit.
5. On April 20, 2025, before receiving a response, the Tenant sent a further email requesting general consent to assign the rental unit.
6. The Tenant testified that the Landlord responded on April 21, 2025. In that response, the Landlord, through its property manager, refused the Tenant's request for general assignment. The Tenant stated that based on this refusal, she understood she was entitled to terminate the tenancy pursuant to the Act.
7. The Tenant subsequently served an N9 Notice of Termination on April 27, 2025, with a termination date of May 27, 2025. The Tenant testified that she vacated the rental unit on May 27, 2025.
8. The Tenant submitted a recording of a telephone call with the Landlord's representative in which the Landlord initially refused assignment and later attempted to revisit that position. The Tenant testified that despite vacating the unit, the Landlord did not apply the LMR deposit to May 2025 and did not return it.
9. The Tenant testified that she paid rent for May 2025, in full and seeks reimbursement for the unused portion of rent from May 28 to May 31, 2025, in the amount of \$238.71.
10. The Tenant also seeks interest on the LMR deposit.

Landlord's Evidence

11. The Landlord testified that the Tenant initially requested to sublet the unit and that the Landlord agreed to the sublet process.
12. The Landlord denies refusing general consent to assign and submits that its communications have been taken out of context.
13. The Landlord testified that the Tenant did not provide a specific proposed assignee.

14. The Landlord stated that the Tenant's N9 is invalid because it did not provide sufficient notice and it contained an incorrect unit number ("B2" instead of "B").
15. The Landlord testified that it did not agree to terminate the tenancy effective May 27, 2025. The Landlord further testified that the rental unit was re-rented effective August 1, 2025, and that the LMR deposit was applied to July 2025.
16. The Landlord submits that the Tenant remained responsible for rent until July 31, 2025, and is therefore not entitled to the return of the LMR deposit.

Analysis

17. Section 95(1) of the Act permits a tenant to assign a rental unit with the consent of the landlord. Section 95(2) allows a tenant to request general consent to assignment.
18. Section 95(4)(a) provides that where a landlord refuses consent to assign, the tenant may terminate the tenancy by giving notice in accordance with the Act.
19. I find, on a balance of probabilities, that the Landlord refused the Tenant's request for general consent to assign in the April 21, 2025, email. While the Landlord expressed a willingness to consider subletting, that is a distinct legal process and does not constitute consent to assignment.
20. I prefer the Tenant's evidence on this point. The Landlord's communication did not provide clear or unconditional consent to assignment and instead redirected the Tenant to an alternative arrangement.
21. I therefore find that the Landlord refused consent within the meaning of s. 95(4)(a), thereby triggering the Tenant's right to terminate the tenancy.
22. Section 106(10) of the Act provides that a rent deposit shall be applied to the last month of the tenancy. As I have found that the tenancy terminated on May 27, 2025, the Landlord was required to apply the LMR to May 2025.
23. The Landlord instead retained the deposit and applied it to July 2025, after the tenancy had ended. I find that the Landlord retained the LMR contrary to the Act.
24. Pursuant to s.135(1) of the Act, the Tenant is entitled to the return of the LMR in the amount of \$1,850.00.
25. The Tenant seeks a pro-rated refund of rent for the period of May 28 to May 31, 2025.
26. The lawful monthly rent was \$1,850.00. The Board calculates daily rent by dividing the monthly rent by 31 days for the month of May. The Tenant is entitled to a refund for 4 days of \$238.71.

Interest on rent deposit owing

27. The Landlord failed to pay the Tenant interest on the last month's rent deposit, as required by the Act. The Tenant paid a last month's rent deposit on June 13, 2024.

28. Pursuant to s.106(6) of the Act, the Landlord is required to pay interest annually on the rent deposit at the guideline rate.
29. The Tenant seeks interest from June 13, 2024, to May 27, 2025 (the date the tenancy terminated), a period of 348 days.
30. I find the Tenant is entitled to interest on the rent deposit in the amount of \$46.25

It is ordered that:

1. The total amount the Landlord shall pay the Tenant is \$2,182.96. This amount represents:
 - \$1,850.00 for the last month's rent deposit.
 - \$238.71 for 4 days refund of rent.
 - \$46.25 for interest on the last month's rent deposit.
 - \$48.00 for the cost of filing the application.
2. The Landlord shall pay the Tenant the full amount owing by May 8, 2026.
3. If the Landlord does not pay the Tenant the full amount owing by May 8, 2026, the Landlord will owe interest. This will be simple interest calculated from May 9, 2026, at 4.00% annually on the balance outstanding.

April 27, 2026
Date Issued

Nathan Korenberg
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.