



Order under Section 126 Residential Tenancies Act, 2006

Citation: Temporada v Martin, 2026 ONLTB 33766

Date: 2026-05-05

File Number: LTB-L-053026-24

In the matter of: 24 Duncan Avenue South, Kirkland Lake, ON, P2N 1X4

Between: Elke Temporada Landlord

And

Refer to attached Schedule 2 Tenants

Elke Temporada (the 'Landlord') applied for an order permitting the rent charged to be increased by more than the guideline for one or more of the rental units in the residential complex.

This application was resolved by a written hearing. The Board received submissions from the following Tenant: Brandy Lee-Leonard, Paralegal, on behalf Keith Martin. A reply to the Tenant submissions was received from the Landlord.

Preliminary Matters:

Agreement to Increase the Rent Above the Guideline (N10)

1. Prior to the commencement of the written hearing, the Landlord submitted copies of "Agreements to Increase the Rent Above the Guideline" (Form N10) for all four of the residential units at the complex. Because the N10's appeared to address the same fire-resistant deck capital expenditure for which the Landlord filed the L5 application, the Board requested clarification from the Landlord regarding whether it intended to proceed with, or withdraw, the L5.
2. The Landlord, in its reply, submits that they wish to proceed with the L5 application, adding that "all the Tenants signed in the AGI increase last year. But I am hoping to have an AGI increase for more years if this is allowed since a 3% increase for a year will not be enough to recover/recoup the cost. I am hoping for an approval of at least 3 years AGI increase for the same capital expenditures that I have filed here".
3. The Act gives the Landlord a choice: to seek an above guideline increase under section 121 of the Act which allows a landlord and tenant to enter into a N10 agreement to increase the rent charged up to a maximum of 3% above the

guideline for capital expenditure work undertaken; or submit an L5 application under Section 126 of the Act, which allows the Landlord to seek an order permitting the rent charged to be increased by more than the guideline for eligible capital expenditures incurred up to a maximum of 9% taken over a period of 3 years.

4. In this case, it is the Landlord's evidence that they entered into N10 agreements with all four units for the same fire-retardant deck capital expenditure that is the subject of the present L5 application. While I understand the Landlord's intention to recover additional costs through this L5 application beyond the 3% set out in the N10 agreements, the Residential Tenancies Act does not permit this. The parties entered into a binding agreement under section 121 to limit the increase to 3% above the guideline for the fire-retardant deck capital expenditure. The Landlord cannot now seek to unilaterally set aside or exceed those agreements by filing a new application under section 126 for a greater increase. Doing so is an abuse of process. In other words, the Landlord has already obtained a remedy for this capital expenditure through section 121 N10 agreements and cannot pursue a second remedy for the same work under section 126 L5 applications.
5. Therefore, I am dismissing the Landlord's L5 application.

It is ordered that:

1. The Landlord's application is dismissed.
2. The Landlord or the Tenants shall pay to the other any sum of money that is owed as a result of this order within 90 days of the date of this order.

May 5, 2026
Date Issued

Andrew Laurich
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.

Schedule 1 - Units affected by this Order:

1
2
3
4

Schedule 2 - Tenants who are Affected by this Order:

Kaur Gill, Amandeep

Martin, Keith

Singh, Gagandeep

Singh, Yuvraj