



Order under Section 135 Residential Tenancies Act, 2006

File Number: LTB-T-079417-25

In the matter of: 501, 285 THAMES ST N
INGERSOLL ON N5C3M7

Between: Parambhai Patel Tenant
Panktee Patel

And

York Property Management Landlord

Parambhai Patel and Panktee Patel (the 'Tenant') applied for an order determining that York Property Management (the 'Landlord') collected or retained money illegally.

This application was heard by videoconference on March 30, 2026.

Both Tenants, Parambhai Patel and Panktee Patel and the Landlord agent Jennifer Grant attended the hearing.

Determinations:

1. As explained below, the Tenant did not prove the allegations contained in the application on a balance of probabilities. Therefore, the application is dismissed.
2. The position of the Parambhai Patel (Param) is he and his wife, Panktee Patel (Panktee) went to view the rental unit on May 22, 2025 with the intent to rent the rental unit for July 1, 2025. The Landlord agent informed the Tenants that the rental unit was available and they could fill out a rental application to start the process. The Tenant filled out a rental application and filed copy with the Board as evidence (DOC-6451353).
3. As part of the application process the Landlord agent informed the Tenants the Landlord required a deposit equal to one month rent in the amount of \$1,525.51 and the Tenants paid this amount. A copy of the bank draft was filed by the Tenants to support the claim a deposit was paid (DOC-6451360).
4. Both Tenants signed the rental application dated May 22, 2025.
5. The Landlord approved the application and sent the Tenants a tenancy agreement to fill out and return to the Landlord however, the Tenants did not sign or return the tenancy agreement.

6. Param stated that Panktee was offered an employment position in Woodstock and Param informed the Landlord agent that they would not be signing the tenancy agreement or accepting the rental unit.
7. The Tenants claim they never signed the tenancy agreement and never received keys or took possession of the rental unit and claim the Landlord is in breach for not returning the deposit they paid.
8. The position of the Landlord is the Tenants were approved for the rental unit and sent a tenancy agreement. The Landlord agent does not dispute the Tenants paid a deposit but references the Tenants evidence of the rental application where it states in bold on page 5:

If this Application is accepted by the Landlord, but the Applicant(s) subsequently wish(es) to withdraw, the deposit shall be forfeited to the Landlord at the Landlord's option in accordance with applicable laws. Upon approval of this Application, the Applicant will use the Landlord's PAD (pre authorized debit) form for any pre-authorized payments. **THIS APPLICATION IS NOT BINDING ON THE LANDLORD UNTIL THE LANDLORD NOTIFIES THE APPLICANT(S) OF ACCEPTANCE BY EMAIL.**

9. The position of the Landlord agent is that under section 107 of the *Residential Tenancies Act*, 2006 (the "Act") the Landlord had accepted the Tenant's application and as such did not breach section 107 of the Act as vacant possession was provided to the Tenant.
10. The Landlord agent stated that the acceptance of the Tenant's application and the tenancy agreement sent to the Tenant qualifies them as "prospective tenants" and the Landlord is not obligated to return the deposit.
11. The Landlord agent stated once the Tenant had made their intentions clear that they did not intend to take possession of the rental unit, the Landlord started their process to attempt to find new tenants.
12. The Landlord agent stated that the Landlord was able to re-rent the rental unit to new tenants who took possession on September 1, 2025.

The Act and Analysis

13. Section 107 of the Act states:

Rent deposit, prospective tenant

107 (1) A landlord shall repay the amount received as a rent deposit in respect of a rental unit if vacant possession of the rental unit is not given to the prospective tenant. 2006, c. 17, s. 107 (1).

14. Section 16 of the Act also applies that states:

Minimize losses

16 When a landlord or a tenant becomes liable to pay any amount as a result of a breach of a tenancy agreement, the person entitled to claim the amount has a duty to take reasonable steps to minimize the person's losses. 2006, c. 17, s. 16.

15. The question before the Board is did the Landlord retain the money illegally given the Tenant's decline to accept the rental unit after the Landlord accepted the Tenant's rental application.
16. Generally only tenants may file an application with the Board however section 107 of the Act is a provision for prospective tenants.
17. This provision has been interpreted to mean that the deposit must be repaid if the landlord **refuses to give possession to the tenant** on the date set for commencement of the tenancy. But neither a landlord nor a tenant can unilaterally decide the tenancy is not going forward. In other words, a tenant cannot simply decide not to move in after all and then expect the return of the deposit. (See: *Opava v. Cook*, [2008 CanLII 22923 \(ON SCDC\)](#), [2008] O.J. No. 1934 (Ont. Div. Ct.), and *Musilla v. Avcan Management Inc.*, [2011] O.J. 3202 (Ont. C.A.).)
[emphasis added]
18. In *Musilla v. Avcan Management* [2010] ONSC 5425 the court found a tenancy agreement had been entered into when the rental application was accepted by the Landlord. The essential terms of the agreement were set out in the rental application. The *Musilla v. Avcan Management* case resembles the decision of the court in *Opava v. Cook* [2008] O.J. No. 1934 (Div Ct). There the Court upheld a decision of the Board dismissing a tenant's application for a refund because the Court observed that the tenancy agreement came into effect the day the parties reached an agreement on the rental unit and the deposit being paid.
19. In this case I find the essential terms of a tenancy agreement were agreed upon by the Landlord and the Tenant in the rental agreement such as the rental unit address, the monthly rent, the day of the commencement of the tenancy, and defining additional terms such as parking and utilities.
20. A prospective tenant also cannot unilaterally cancel the tenancy agreement, however if the tenant attempts to cancel the landlord has a positive duty to mitigate their losses and try to find replacement tenants pursuant to section 16 of the Act.
21. I am satisfied with the Landlord agent's testimony regarding the Landlord's reasonable efforts to attempt to find new tenants. In my view the two months the Landlord spent in attempting to find new tenants is a reasonable time given the Tenant's short notice to cancel.
22. With the totality of the evidence and submissions before me and on a balance of probabilities I find the Tenant has not proved the allegations in the application.
23. Therefore, the Tenant's application must be dismissed.
24. This order contains all reasons for the determinations and order made. No further reasons will be issued.

It is ordered that:

1. The Tenant's application is dismissed.

May 14, 2026
Date Issued

Greg Brocanier
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.