



## **Order under Section 135 Residential Tenancies Act, 2006**

**Citation:** Dyck v Butera, 2026 ONLTB 40513

**Date:** 2026-05-25

**File Number:** LTB-T-008131-26

**In the matter of:** 410, 3401 Weinbrenner Road  
Niagara Falls ON L2G7K6

**Between:** Mathew Dyck  
Crystal Dyck  
Tenants

**And**

Angelo Butera  
Landlord

Mathew Dyck and Crystal Dyck (the 'Tenants') applied for an order determining that Angelo Butera (the 'Landlord') collected or retained money illegally.

This application was heard by videoconference on May 20, 2026.

The Landlord and the Tenants attended the hearing.

### **Reasons:**

#### Issue

1. On October 7, 2025, the Tenants gave notice to end their month-to-month tenancy effective December 1, 2025. The notice was invalid, because it was given less than 60 days before the termination date. Pursuant to section 88(1) of the *Residential Tenancies Act, 2006* (RTA), the Tenants owed rent to December 31, 2025, the earliest date for which they could have given a valid notice of termination.
2. The Tenants paid rent through November 30, 2025. The Landlord retained their rent deposit to pay for December, 2025.
3. The Tenants bring this application seeking the return of their deposit. They concede that the Landlord would have been permitted to apply the deposit to December, but they rely on section 88(4) of the RTA, which provides that in determining the amount of rent owing, consideration must be given to whether the Landlord has taken reasonable steps to minimize his losses. They argue that the Landlord did not take reasonable steps to re-rent the unit after they gave notice, and that if he had, he might have found a new tenant for

December 1. On that basis, they seek a finding that they do not have to pay December's rent and that their deposit should therefore be returned.

4. The only question before me is whether the Landlord took reasonable steps to try to re-rent the unit after the Tenants gave notice.

### Evidence

5. The Landlord testified that immediately after the Tenants gave notice on October 7, he posted the unit for rent on the Kijiji website. From then on, every few days he "bumped" the listing to the top of the website. He also refreshed the listing at the start of each month in November, December, January, and February. However, few prospective tenants inquired about the unit, and the few who did were unsuitable. The Landlord was not able to re-rent the unit until May 1, 2026.
6. The Landlord testified that his usual practice is to post units for rent on Kijiji. Although there are other websites which also post units for rent, in his experience Kijiji generates the most interest. Posts on Kijiji also sometimes get automatically re-posted on other sites.
7. The Landlord also has his own website, but he testified that it does not generate much traffic, so he does not keep it up to date. In October through December, 2025, it listed units of this unit's type as "coming soon," so prospective tenants visiting the website would not have known that the Tenants' unit was available for rent.
8. Ultimately, the Landlord testified that the market demand for rental housing was unusually low in late 2025. Normally, in his experience, posting a unit on Kijiji would have been sufficient to find a new tenant. He attributes his failure to re-rent the unit to market conditions, and does not think that posting the unit on additional websites or on his own website would have helped.

### Analysis

9. The Landlord's testimony was uncontradicted, and I have no reason to doubt it.
10. The Tenants rely primarily on the fact that the Landlord did not keep his own website up to date. They argue that, by listing units of their type as "coming soon," he prevented prospective tenants from finding out about the unit.
11. I am not persuaded by the Tenants' argument. I accept the Landlord's testimony that he does not usually find new tenants through his website. It makes sense that new tenants would find units through websites such as Kijiji, which list units offered by multiple landlords. It would make less sense for a prospective tenant to go to a specific landlord's website, since people looking for housing are not generally looking for one specific landlord. Hence I am not convinced that it would have made a meaningful difference if the Landlord had kept his own website up to date.
12. I also accept the Landlord's testimony that, despite posting the unit on Kijiji as per his usual practice, he received an unusually low number of inquiries. His theory that this was due to market conditions makes sense. Hence I agree with him that also posting the unit on other websites would not likely have helped.

13. For those reasons, I am satisfied that the Landlord took reasonable steps to minimize his losses. Despite those steps, the unit was not re-rented until after December 31. Consequently, the Landlord was permitted to use the Tenants' deposit to pay the rent for December. The Tenants' application for the return of the deposit will be dismissed.

**It is ordered that:**

1. The Tenants' application is dismissed.

**May 25, 2026**  
**Date Issued**

---

Dale Whitmore  
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.