



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

Citation: Kim v Yuen, 2026 ONLTB 40276

Date: 2026-05-26

File Number: LTB-T-004417-26

In the matter of: 1206, 20 OLIVE AVE
NORTH YORK ON M2N7G5

Between: Wooyeong Kim Tenant

And

Elton Yuen Landlord

Wooyeong Kim (the 'Tenant') applied for an order determining that Elton Yuen (the 'Landlord') collected or retained money illegally.

This application was heard by videoconference on May 19, 2026.

The Landlord and the Tenant attended the hearing.

Determinations:

1. As explained below, the Tenant proved the allegations contained in the application on a balance of probabilities. Therefore, the Landlord must pay the Tenant the sum of \$860.00.
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').
3. The Landlord and Tenant entered into a one year lease for a term to commence on April 27, 2024 and to end on April 26, 2025. The Tenant moved in on April 27, 2024. The Tenant paid a last month's rent deposit and a key deposit of \$300.00 when the tenancy commenced. The Tenant did not move out on termination of the fixed term and the tenancy became a month to month tenancy.
4. On October 21, 2025, the Tenant gave the Landlord a signed N9 notice stating a termination date of December 26, 2025. This notice is for more than 60 day notice for termination and ends on the last day of a period of the tenancy. The Landlord acknowledges receipt of the N9 notice and did not challenge its validity.
5. After the N9 notice was given, during November, 2025, the Landlord and the Tenant discussed terms on which the tenancy might continue beyond December 26, 2025 at a

revised rent. The parties disagree on who initiated such discussions. No revised lease or any documentation proving offer and acceptance of revised terms of a tenancy to continue beyond December 26, 2025 were provided in evidence. While there was a discussion of the Tenant's interest in remaining in occupation after December 26, 2025, I find that on the evidence that the Tenant decided against remaining in occupation, advised the Landlord, and any negotiations then ended.

6. On November 24, 2026, the Tenant paid the Landlord the sum of \$2,400. The Tenant says this is payment of the rent due to for the period November 27, 2025 to December 26, 2025. The Landlord disagrees and says this payment is the last month's rent deposit for a new tenancy to commence on termination of the existing tenancy on December 26, 2025. I do not agree. There is no evidence that the parties ever agreed on new terms of a tenancy. I find that the payment of \$2,400 by the Tenant to the Landlord on November 24, 2025 is rent for the period November 27, 2025 to December 26, 2025.
7. The Tenant moved out of the rental unit on December 28, 2025 and returned the keys to the Landlord. The parties disagree as to the reasons for the delay. The Tenant says the unit was clean and that the rental unit has not sustained any damage for which he was liable. The Landlord says his realtor, who did not testify, stated that the unit was not clean and there was some minor drywall damage. The Tenant stayed to do some cleaning which he did not feel was necessary in order to avoid a dispute with the Landlord.
8. The Landlord has claims against the tenant for daily compensation for the two days from the date of termination in the N9 notice, for cleaning of the rental unit and drywall repairs.
9. The Landlord sent the tenant a refund in the amount of \$1,948.00 in January, 2026 after deducting the charges which the Landlord felt he was entitled to claim from the Tenant.
10. A Landlord is only allowed to use a last month's rent deposit for rent for the final period of the tenancy. This is provided in s. 106(10) of the Act as follows:

s. 106 (10) A landlord shall apply a rent deposit that a tenant has paid to the landlord or to a former landlord in payment of the rent for the last rent period before the tenancy terminates.

11. The final period of this tenancy was November 27, 2025 to December 26, 2025. As the Tenant paid rent for that period, as noted above, there is no rent owing for the final period of the tenancy and the deposit must be returned to the Tenant. It is not necessary for me to decide on the merits of any of the Landlord's claims against the Tenant and I make no such findings.
12. Even if the \$2,400 payment made by the Tenant on November 24, 2025 was a last month's rent deposit for a new tenancy, the Landlord is not entitled to deduct an amount he believes to be owing by the Tenant against that deposit. Where a prospective tenant is not given vacant possession of the rental unit, the last month's rent deposit given by the Tenant is to be refunded and any claims by the Landlord may not be deducted or set off against this deposit. This is provided in s. 107(1) of the Act:

s.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.

13. As noted above, I have found that there was no agreement between the parties for a new tenancy after termination of the existing tenancy or for continuation of the existing tenancy beyond the termination date of December 26, 2025 stated in the N9 notice.
14. The Landlord failed to pay the Tenant interest on the last month's rent deposit, as required by the *Residential Tenancies Act, 2006* (the 'Act'). The Landlord and the Tenant agree that the amount of interest due on the last month's rent deposit is \$60.00.

It is ordered that:

1. The total amount the Landlord shall pay the Tenant is \$860.00. This amount represents:
 - \$2,400.00 for the last month's rent deposit.
 - \$300.00 for the key deposit
 - \$60.00 for interest on the last month's rent deposit.
 - \$48.00 for the cost of filing the application.
 - Less the amount of \$1,948.00 refunded by the Landlord.
2. The Landlord shall pay the Tenant the full amount owing by June 6, 2026.
3. If the Landlord does not pay the Tenant the full amount owing by June 6, 2026, the Landlord will owe interest. This will be simple interest calculated from June 7, 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.

May 26, 2026
Date Issued

Jack Jamieson
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.

