



Order under Sections 69 and 135 Residential Tenancies Act, 2006

File Number: LTB-L-019579-25
LTB-T-106860-25

In the matter of: 304, 176 BERRY RD
ETOBICOKE ON M8Y1W5

Between: Gilindo Marcocchio Limited Landlord

And

Yuriy Livvy Tenant

LTB-L-019579-25

Gilindo Marcocchio Limited (the 'Landlord') applied for an order to terminate the tenancy and evict Yuriy Livvy (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

LTB-T-106860-25

The Tenant applied for an order determining that the Landlord collected or retained money illegally.

These applications were heard together by videoconference on April 13, 2026.

The Landlord's Legal Representative, E. Steiman, the Landlord's Agent, Valentyna Nishta, and the Tenant's Agent, Marharyta Liva, attended the hearing.

Determinations:

LTB-L-019579-25

1. The Landlord served the Tenant with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). The Tenant did not void the notice by paying the amount of rent arrears owing by the termination date in the N4 Notice or before the date the application was filed.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. The Tenant vacated the rental unit on July 15, 2025. Rent arrears are calculated up to the date the Tenant vacated the unit.

Lawful Rent

4. The Tenant disputed the lawful monthly rent claimed by the Landlord of \$1,362.17 effective January 1, 2025. The Tenant's Agent submitted that the Notice of Rent Increase (N1) served by the Landlord in 2021 and effect January 1, 2022 was invalid and/or void as it claimed an unlawful amount thus all N1s from that point onward would also be invalid and/or void. She asserted that the lawful rent ought to remain at the same amount as per the last prior valid N1 which was effective January 1, 2019 being \$1,164.43 (DOC-5769554pgs1-2). There was no evidence of any rent increase in 2020 for this unit and there were no increases permitted at law in 2021.
5. There was no dispute that the following N1s were served on the Tenant (DOC-5769554pgs3-10):
 - dated September 24, 2021, demanding a rent increase above the guideline, namely 4.2% effective January 1, 2022 in the amount of \$1,213.33;
 - dated September 22, 2022, demanding a rent increase above the guideline namely 5.5% effective January 1, 2023 in the amount of \$1,280.06;
 - dated September 4, 2023 demanding a rent increase above the guideline namely 4% effective January 1, 2024 in the amount of \$1,331.26; and
 - dated September 4, 2024 demanding a rent increase equal or less than the guideline namely 2.46% effective January 1, 2025 in the amount of \$1,364.00.
6. There was also no dispute that on October 4, 2024, order LTB-L-080033-22 (formally TSL-24777-21) was issued which included the Tenant's unit and name, and authorized the following rent increases above the guideline (DOC-6348152):
 - 2022 – 3%
 - 2023 – 3%
 - 2024 – 1.36%
7. The Tenant's Agent asserts that despite the service of N1s increasing the rent above the guideline there was no order authorizing an increase until October 2024 and any charges before that order were unlawful. In support of her assertion, she relied on subsection 126(5) of the *Residential Tenancies Act, 2006* (the 'Act') which provides that:

If an application is made under this section and the landlord has given a notice of rent increase as required, until an order authorizing the rent increase for the rental unit takes effect, the landlord shall not require the tenant to pay a rent that exceeds the lesser of,

 - (a) the new rent specified in the notice; and
 - (b) the greatest amount that the landlord could charge without applying for a rent increase.
8. She also asserted that the Tenant received a Notice to End Your Tenancy For Non-Payment of Rent (N4 Notice) on November 14, 2024, after the issuance of the Above Guideline Increase (AGI) order, LTB-L-080033-22, wherein the Landlord was permitted to

charge the amounts owing from the AGI order, and claimed \$1,534.17 owing to November 30, 2024. She further asserted that this amount was paid to the Landlord in full thus the Tenant would have paid all outstanding amounts owing for the AGI to November 30, 2024 yet the Landlord served another N4, which this application is based upon, on February 11, 2025 and claimed an amount of \$2,451.16 owing dating back to January 1, 2022.

9. Essentially, I was satisfied that the Tenant's Agent's position was that since the Tenant paid an amount claimed by the Landlord in a N4 dated November 14, 2024 which at that time the calculations for the AGI order ought to have been made, the Landlord cannot now claim additional amounts owed from the AGI order.
10. However, the Tenant's position is not correct. Firstly, the AGI order LTB-L-080033-22, issued on October 4, 2024 gave 120 days to the parties to pay the other any sum owed as a result of the order. Therefore, I was satisfied that the Landlord could not claim these amounts owed for at least 120 days after October 4, 2024 which is sometime after February 1, 2025. Secondly, a N4 does not have the same effect as an LTB order. The N4 served on the Tenant in November 2024 was an allegation of rent owing and those amounts were not determined by the LTB. Therefore the Landlord is not statute barred from claiming additional amounts calculated to be owed on a later date.
11. In this case, there was no dispute that despite N1s being served on the Tenant in 2021, 2022 and 2023 for effective dates of January 1 the following year, the Tenant continued to only pay \$1,164.43 which was the increased rent amount as of January 1, 2019. However, the Tenant was required to pay at least the guideline increase amount each year as per the N1s served. This is clearly set out in the N1 notice itself under "Important Information About the Law" which states the following:

"3. If the rent increase needs approval by an order under the *Residential Tenancies Act, 2006* the tenant is not required to pay more than the guideline increase until the order is issued. If the tenant only pay the guideline increase, the tenant may owe the landlord once the order is issued."

Emphasis Added

12. This is also set out in subsection 126(5) of the Act, which was relied upon by the Tenant's Agent, and provides that a landlord shall not require the tenant to pay a rent that exceeds the lesser of the new rent specified in the notice; and the greatest amount that the landlord could charge without applying for a rent increase, which is essentially the yearly guideline amount (Emphasis Added).
13. Given the above, I was satisfied that the Landlord was permitted to charge and collect from the Tenant at least the guideline amount each year from 2022 to 2024 whilst serving N1s that included an amount above the guideline required by an order. Since the Landlord properly served N1s in accordance with section 116 of the Act, these guideline increase amounts were lawfully charged, and since the Tenant had not applied to challenge those rent increases within one year of them first being charged, the Landlord is entitled to rely upon subsection 136(1) of the Act which deems the rent charged for one or more years lawful.

14. Therefore, I was satisfied that the deemed lawful rent before the AGI order was issued for the following dates was:

- January 1, 2022 = \$1,178.40 ($\$1,164.43 \times 1.012$), guideline was 1.2%
- January 1, 2023 = \$1,207.86 ($\$1,178.40 \times 1.025$), guideline was 2.5%
- January 1, 2024 = \$1,238.06 ($\$1,207.86 \times 1.025$), guideline was 2.5%

15. Consequently, after the AGI order was issued, I was satisfied that the lawful rent for the following dates became:

- January 1, 2022 = \$1,213.33 ($\$1,164.43 \times 1.04.2$), Guideline 1.2 % AGI 3%
- January 1, 2023 = \$1,280.06 ($\$1,213.33 \times 1.055$), Guideline 2.5% + AGI 3%
- January 1, 2024 = \$1,329.47 ($\$1,280.06 \times 1.0386$), Guideline 2.5 % + AGI 1.36%

16. As per paragraph 5 above, the Landlord served a N1 dated September 4, 2024, demanding a rent increase equal or less than the guideline amount, namely 2.46% to take effect on January 1, 2025 in the amount of \$1,364.00 (DOC-5769554pgs9-10). The Tenant has disputed this rent increase at the first hearing on November 3, 2025. Therefore, I find that this increase cannot be automatically deemed lawful by application of subsection 136(1) of the Act as it was disputed within one year of the date it was first charged.

17. Since the lawful rent for January 1, 2024 was \$1,329.47, and the Landlord provided a N1 to the Tenant for a 2.46% increase effective January 1, 2025, the total allowable was only \$1,362.17 ($\$1,329.47 \times 1.0246$). However, the Landlord's N1 dated September 4, 2024 and served on the Tenant increased the rent to \$1,364.00, which is unlawful as it is more than the allowable amount thus I find that this N1 was invalid.

18. Consequently, the lawful rent for January 1, 2025 remained at \$1,329.47 as an invalid N1 was served on the Tenant. The lawful rent was due on the 1st day of each month.

19. There was no dispute that the Tenant has paid \$2,728.00 to the Landlord since the application was filed.

20. Therefore, I find that the rent arrears owing to July 15, 2025 are \$4,267.29.

21. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

22. The Landlord collected a rent deposit of \$1,362.70 from the Tenant and this deposit is still being held by the Landlord. The rent deposit is applied to the arrears of rent because the tenancy terminated.

23. Interest on the rent deposit, in the amount of \$18.29 is owing to the Tenant for the period from January 1, 2025 to July 15, 2025.

LTB-T-106860-25

24. In this application, the Tenant sought a determination on the lawful rent which is the reason these matters were heard together. The Tenant alleged that the rent increase effective January 1, 2025 of \$1,364.00 was unlawful as the prior rent increases were also unlawful. As per the above findings, the Tenant's assertion was partly correct. Therefore, the rent is only adjusted for the period of January 1, 2025 onward at \$1,329.47 per month as this was the deemed lawful rent as of January 1, 2024.
25. The Tenant incurred costs of \$48.00 for filing this application and is entitled to reimbursement of those costs.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated as of July 15, 2025, the date the Tenant moved out of the rental unit.
2. The Tenant shall pay to the Landlord \$3,024.30. This amount includes rent arrears owing up to the date the Tenant moved out of the rental unit and the difference in the costs for filing the applications. The rent deposit and interest the Landlord owes on the rent deposit is deducted from the amount owing by the Tenant. See Schedule 1 for the calculation of the amount owing.
3. If the Tenant does not pay the Landlord the full amount owing on or before June 9, 2026, the Tenant will start to owe interest. This will be simple interest calculated from June 10, 2026 at 4.00% annually on the balance outstanding.

May 29, 2026
Date Issued

Lisa Del Vecchio
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
SUMMARY OF CALCULATIONS

A. Amount the Tenant must pay as the tenancy is terminated

Rent Owing To Move Out Date	\$6,995.29
Application Filing Fee \$186.00 - \$48.00	\$138.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$2,728.00
Less the amount of the last month's rent deposit	- \$1,362.70
Less the amount of the interest on the last month's rent deposit	- \$18.29
Total amount owing to the Landlord	\$3,024.30