



Order under Section 135 Residential Tenancies Act, 2006

Citation: Lobo v Henry, 2026 ONLTB 46512

Date: 2026-06-18

File Number: LTB-T-001417-26

In the matter of: 2760 Rainbow Crescent
Mississauga ON L5L2H7

Between: Andrew Lobo Tenant

And

Paul Henry Landlord

Andrew Lobo (the 'Tenant') applied for an order determining that Paul Henry (the 'Landlord') collected or retained money illegally.

This application was heard by videoconference on May 4, 2026.

The Landlord and the Tenant's Agents Christopher Lobo and Amy Lobo 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.

Illegal charge collected

2. It is agreed that the Tenant entered into a tenancy agreement with the Landlord for a fixed term tenancy commencing on February 1, 2024 for a period of one year. The monthly rent was \$2,000.00 per month. At the time of entering into the tenancy agreement the tenant paid the Landlord \$12,000.00, being \$2,000.00 towards first months rent and \$10,000.00 towards the last 5 months rent of the tenancy.
3. Based on the undisputed evidence before me, I am satisfied that the \$10,000.00 collected by the Landlord is not allowed by the *Residential Tenancies Act, 2006* (the 'Act'). Section 106(2) of the Act indicates that the amount of a rent deposit shall not be more than the lesser of the amount of rent for one rent period and the amount of rent for one month. The maximum amount the Landlord could have collected from the Tenant would have been \$2,000.00 the equivalent of one month's rent.

4. Pursuant to section 135(1) of the Act a tenant or former tenant of a rental unit may apply to the Board for an order that the landlord, superintendent or agent of the landlord pay to the tenant any money the person collected or retained in contravention of this Act or the *Tenant Protection Act, 1997*.
5. For the purposes of this matter I am satisfied that the money in question was being retained by the Landlord in contravention of the Act.
6. Section 135(4) of the Act sets out the time frame in which a tenant or former tenant can apply for an order pursuant to section 135(1) as follows:

No order shall be made under this section with respect to an application filed more than one year after the person collected or retained money in contravention of this Act or the *Tenant Protection Act, 1997*.

7. In order to determine when the Landlord retained money in contravention of the Act it must first be determined when the tenancy ended.
8. The Tenant's Agents state that the Tenant suffered a workplace accident in late September or early October, 2024 and shortly thereafter advised the Landlord orally that he needed to vacate the rental unit.
9. The Tenant's Agents stated that the Tenant vacated the rental unit on October 15, 2024.
10. The Landlord testified that he received a txt message from the Tenant on October 15, 2024 advising that he was vacating the rental unit as of December 1, 2024.
11. The Landlord further testified that at that time he was leaving the country to deal with the passing of his mother-in-law and attend her funeral. He advised the Tenant that they could address the matter upon his return.
12. The following day the Landlord alleges that the Tenant sent another txt message to him stating that he had moved out of the rental unit and cleaned the apartment.
13. Upon returning from his mother-in-law's funeral the Landlord attended the rental unit on October 31, 2024 and the unit was empty and vacant. The Landlord could not recall if the Tenant had returned the keys to the unit or not.

Analysis

14. Section 47 of the Act states that a tenant may terminate a tenancy at the end of a period of the tenancy or at the end of the term of a tenancy for a fixed term by giving notice of termination to the landlord in accordance with section 44.
15. Section 44(4) of the Act indicates that the notice to terminate a fixed term tenancy is 60 days before the expiration date specified in the tenancy agreement, to be effective on that expiration date.
16. On a balance of probabilities I am satisfied that the Tenant sent a txt to the Landlord on or around October 15 or 16, 2024 indicating that he was vacating the rental unit.

17. The notice provided by the Tenant was not valid because it did not provide 60 days notice to terminate the tenancy as required by section 44(4).

18. Pursuant to section 88 (1) of the Act:

If a tenant abandons or vacates a rental unit without giving notice of termination in accordance with this Act and no agreement to terminate has been made or the landlord has not given notice to terminate the tenancy, a determination of the amount of arrears of rent owing by the tenant shall be made in accordance with the following rules:

1. If the tenant vacated the rental unit after giving notice that was not in accordance with this Act, arrears of rent are owing for the period that ends on the earliest termination date that could have been specified in the notice, had the notice been given in accordance with section 47, 96 or 145, as the case may be.

19. In accordance with section 88(1) of the Act, the earliest date the Tenant could have specified in their notice to terminate the tenancy given to the Landlord on October 15 or 16, 2024 would be December 31, 2024.

20. The limitation period to commence an application pursuant to section 135(1) is one year after the person collected or retained money in contravention of the Act or the *Tenant Protection Act, 1997*. In the case before me that limitation period would be December 31, 2025. One year after the earliest date the tenant could have terminated the tenancy pursuant to an invalid notice sent to the Landlord on October 15 or 16, 2024.

21. The Tenant filed their application pursuant to section 135(1) of Act, on January 6, 2026. Which is outside the time frame prescribed by section 135(4) of the Act.

22. For all the reasons noted above the Tenants' application is dismissed as it is outside the time frame prescribed by section 135(4) of the Act.

It is ordered that:

1. The Tenant's application is dismissed.

June 18, 2026
Date Issued

Sean Ramage
Member, Landlord and Tenant Board

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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.