



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

**Citation:** Arunagi Rinathan v Hejazi, 2023 ONLTB 77633

**Date:** 2023-11-28

**File Number:** LTB-T-071933-22

**In the matter of:** 1929 Pine Grove Avenue  
Pickering Ontario L1V6R4

Tenants

**Between:** Ganesh Arunagi Rinathan  
Nicole Maharaj

**And**

Penny Hejazi

Landlord

Ganesh Arunagi Rinathan and Nicole Maharaj (the 'Tenants') applied for an order determining that Penny Hejazi (the 'Landlord') collected or retained money illegally.

This application was heard by videoconference on November 20, 2023.

The Landlord and the Tenants attended the hearing.

**Determinations:**

1. As explained below, the Tenants proved the allegations contained in the application on a balance of probabilities. Therefore, the Landlord must pay the Tenant the amount collected for deposit as detailed below.
2. The Tenants' T1 application is about money collected and retained for keys to the house, mailbox and garage door opener.
3. It was not disputed that the tenancy began November 28, 2017 and the Tenants moved out November 17, 2020.
4. There is no dispute that around October 27, 2017, the Landlord collected \$300.00 as deposit for the keys and garage door opener.
5. I note, the OREA agreement specifies, at Schedule A, that this deposit is refundable and will be returned to the Tenants upon return of possessions in good working order.

6. The Tenants said that during the move-out inspection with the Landlord's husband on November 18, 2020, the keys and opener were turned over and the Landlord's husband confirmed everything was acceptable and that he would be in touch to return the deposit.

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7. The Tenants said they followed up with the Landlord a short time later and they were advised that due to damage to the refrigerator, the deposit would not be returned.
8. The Tenants read into the record a text message from the Landlord to the Tenants around December 1, 2020 where the Tenants were advised that the deposit would be returned once the Tenants paid the water bill.
9. The Landlord opposes the Tenants' application and says there was no move out inspection and only the mailbox key was left in the garage, no house keys and the garage door opener was damaged. The Landlord did not provide any submissions on the cost to repair the remote nor costs associated with replacement keys. The Landlord said her husband did not meet with the Tenants. I note, he was not available to provide testimony on the date of the hearing.
10. The Landlord said that there was significant damage in the rental unit following the terminate of the tenancy.
11. As discussed at the hearing, a deposit is not intended to be used to cover costs as claimed by the Landlord.

#### Law and Analysis

12. Subsection 134(1) of the Act says:

134. (1) Unless otherwise prescribed, no landlord shall, directly or indirectly, with respect to any rental unit,

(a) collect or require or attempt to collect or require from a tenant or prospective tenant of the rental unit a fee, premium, commission, bonus, penalty, key deposit or other like amount of money whether or not the money is refundable;

13. This reads as an absolute prohibition against a landlord charging any kind of fee other than rent to a tenant. However, the section uses the phrase "unless otherwise prescribed" which means fees can be charged if they are set out in regulation.

14. The exemptions to s. 134(1) are set out in section 17 of Ontario Regulation 516/06. It says in part:
17. The following payments are exempt from section 134 of the Act:
1. **Payment for additional keys, remote entry devices or cards requested by the tenant, not greater than the direct costs.**
  2. Payment for replacement keys, remote entry devices or cards, not greater than the direct replacement costs, unless the replacement keys, remote entry devices or cards are required because the landlord, on the landlord's initiative, changed the locks.
  3. Payment of a refundable key, remote entry device or card deposit, not greater than the expected direct replacement costs.

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[Emphasis added.]

15. Based on the evidence before the Board and on a balance of probabilities I find the Tenants returned the keys and garage door opener to the Landlord's husband during the move out inspection. I find it more likely than not, that the Landlord chose to retain the deposit based on the allegations of damage in the rental unit. I am satisfied that the Landlord collected and retained the key and garage door deposit in the amount of \$300.00 illegally.
16. Pursuant to s.134 of the Act and s.17 of the O.Reg. 516/06, the Landlord must return the \$300.00 key deposit she continues to retain. Even if the deposit was initially collected legally pursuant to s.17 of the regulations, the deposit must be refundable and it should have been returned to the Tenants when they moved out on November 17, 2020.
17. The Tenants incurred costs of \$53.00 for filing the application and is entitled to an order requiring the Landlord to reimburse them that cost. An order will issue accordingly.

**It is ordered that:**

1. The Landlord shall pay to the Tenants the sum of \$353.00. This amount represents:
  - \$300.00 for the illegal charge collected.
  - \$53.00 for the cost of filing the application.
2. The Landlord shall pay the Tenants the full amount owing by December 9, 2023.

3. If the Landlord does not pay the Tenants the full amount owing by December 9, 2023, the Landlord will owe interest. This will be simple interest calculated from December 10, 2023 at 7.00% annually on the balance outstanding.
4. The Tenants have the right, at any time, to collect the full amount owing or any balance outstanding under this order.

**November 28, 2023**

**Date Issued**

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Dana Wren  
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor Toronto  
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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.