



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

**Citation:** Morris v Wang, 2023 ONLTB 62393

**Date:** 2023-09-18

**File Number:** LTB-T-060692-22

**In the matter of:** 2, 562 Perth Ave  
Toronto Ontario M6N2W7

Tenant

**Between:** Kelsi Morris

**And**

Youxin (Lionel) Wang

Landlord

Kelsi Morris (the 'Tenant') applied for an order determining that Youxin (Lionel) Wang (the 'Landlord') collected or retained money illegally.

This application was heard by videoconference on September 6, 2023.

Only the Tenant attended the hearing.

As of 10:44 a.m., the Landlord was not present or represented at the hearing. Board records indicate that the Notice of Hearing email sent to the Landlord was undeliverable. However, the Landlord did upload submissions to the LTB portal on November 14, 2022. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Tenant's evidence.

### **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 \$1,850.00 for the last month's rent deposit and the costs of filing the application.

*Rent deposit not applied to last month of tenancy*

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 Tenant testified that she paid \$1,850.00 on October 9, 2020 for the last month's rent deposit. The Tenant submitted a copy of the lease that indicates a rent deposit of \$1850.00.

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4. The Tenant testified that she asked the Landlord to terminate the tenancy early in June 2021 as she wished to vacate the unit on July 28, 2021. The Landlord refused to sign an N11 notice and told the Tenant she would have to find an assignment.
5. The Tenant testified that the Landlord cashed her July 2021 rent cheque on July 2, 2021.
6. The Tenant testified that she sent the Landlord two potential assignees and the Landlord rejected both on July 12, 2021. She testified that the Landlord then agreed to end her lease at the end of July and return the post-dated cheques for August, September and October 2021.
7. The Tenant vacated the unit on July 28, 2021 and left the keys with the tenant downstairs. Despite her request for a refund of the last month's rent deposit, the Landlord has not returned the funds.

### *Analysis*

8. Section 106(10) of the Act states:

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.

9. Based on the uncontested evidence before me, I find that the parties agreed to terminate the tenancy and the Landlord did not apply the last month's rent deposit to the month of July 2021, the last month of tenancy.
10. The Landlord cashed the Tenant's July 2021 cheque and retained the last month's rent deposit. Therefore, I find that the Landlord's retention of \$1,850.00 in contravention of the Act. Accordingly, the Tenants' application is granted.
11. As the application is successful, the Tenant is entitled to reimbursement for her costs of filing the application in the amount of \$53.00.

**It is ordered that:**

1. The total amount the Landlord shall pay the Tenant is \$1,903.00. This amount represents:
  - o \$1,850.00 for the last month's rent deposit. o
  - \$53.00 for the cost of filing the application.
2. The Landlord shall pay the Tenant the full amount owing by September 29, 2023.
3. If the Landlord does not pay the Tenant the full amount owing by September 29, 2023, the Landlord will owe interest. This will be simple interest calculated from September 30, 2023 at 6.00% annually on the balance outstanding.

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4. The Tenant has the right, at any time, to collect the full amount owing or any balance outstanding under this order.

**September 18, 2023**

**Date Issued**

\_\_\_\_\_  
Vicky Liu

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.

