



**Order under Section 69
Residential Tenancies Act, 2006**

Citation: Chen v Chen, 2023 ONLTB 27147

Date: 2023-03-22

File Number: LTB-T-081935-22
(formerly File # EAT-91877-20)

In the matter of: 4903, 7 Grenville Street Toronto
Ontario M4Y0E9

Between: Yi Feng Chen and Zhou Wen Li Tenants

And

Rui Zhu Chen and Si Zhou Chi Landlords

Your file has been moved to the Landlord and Tenant Board's new case management system, the Tribunals Ontario Portal. Your new file number is LTB-T-081935-22

Yi Feng Chen and Zhou Wen Li (the 'Tenants') applied for an order determining that Si Zhou Chi and Rui Zhu Chen (the 'Landlords') have collected or retained money illegally.

This application was heard via videoconference on November 30, 2021.

The Tenants, represented by Marshall Yarmus, a licensed Paralegal, and the Landlords, represented by Michael Ostroff, attended the hearing.

Determinations:

1. This is a T1 Tenant Application for a Rebate of Money the Landlord Owes.
2. The Tenants are claiming that:
 - a) the Landlords have charged them \$16,400.00 of illegal rent, which they paid over the past 12 month;
 - b) they paid the Landlord an illegal charge of \$4,000.00;

- c) the Landlord did not use the last month's rent deposit to pay for the last rental period of the tenancy and did not return the deposit; and
 - d) the Landlord did not pay the interest on the last's rent deposit of \$96.67
3. A Case Management Hearing (the "CMH") was held on January 5, 2021. At the CMH the parties agreed that the Landlords shall return to the Tenants the damage deposit in the amount of \$1000.00 and key deposit in the amount of \$600.00 payable to Yi Feng Chen within 10 days of receipt of the rental unit keys.
4. The remaining issues addressed at the hearing were the allegations of illegal rent, illegal charges and interest owing on the last months' rent deposit.

Evidence

- 5. The tenancy commenced on April 21, 2019 pursuant to a Standard Form Lease signed on or about April 19, 2019 for a fixed term ending April 20, 2020
- 6. After April 20, 2020 the tenancy continued on a month-to-month basis.
- 7. The monthly rent was \$2,800.00 and was due on the 20th of each month.
- 8. The Tenants also paid the Landlord an additional \$100.00 per month for the use of a locker. The locker rental did not form part of the leasing agreement for the rental unit.
- 9. For the initial year of the rental agreement, the Tenants paid the Landlords rent one year in advance. The Tenants were students, without a satisfactory credit report.
- 10. The Tenants submitted copies of receipts, dated March 30 and April 19, 2019, payable to the Landlords, in support of their claim that rent was paid in advance for both the rental unit and locker.
- 11. After the initial lease had expired the tenancy continued on a month-to-month basis. The Tenants once again paid rent in advance for 1 year for the period from [date] to [date].
- 12. The Tenants submitted copies of 3 money orders dated March 20, 2020, totaling \$34,800.00 in support of their submission that rent was paid one year in advance.
- 13. In September 2020, the Tenants decided to move out of the rental unit. On or about September 12, 2020 the Tenants sent the Landlords a N9 Notice, Tenant's Notice to End the Tenancy, (the N9 Notice) effective November 20, 2020.
- 14. The Tenant's representative submitted a copy of the N9 Notice to the Board in support of their claim that they provided notice to the Landlord to terminate the tenancy.

15. The Landlords did not contest that the Tenants moved out of the rental unit on November 20, 2020

Residential Tenancies Act, 2006 (the "Act")

16. Section 3 (1) of the Act states that

This Act, except Part V.1, applies with respect to rental units in residential complexes, despite any other Act and despite any agreement or waiver to the contrary.

This section means that landlords and tenants cannot contract out of their obligations under the Act

17. In this case this is a month-to-month tenancy for which the Tenants were entitled to end the tenancy by providing the Landlord with at least 60 days' written notice. There is no dispute that the Tenants provided the Landlord with written notice on September 12, 2020 to vacate the rental unit on November 20, 2020. Given this, I am satisfied the Tenants ended the tenancy in accordance with the Act.

18. Section 135(1.1)(a) of the Act states:

(1.1) No landlord shall, directly or indirectly, with respect to any rental unit, collect or require or attempt to collect or require from a former tenant of the rental unit any amount of money purporting to be rent in respect of,

(a) any period after the tenancy has terminated and the tenant has vacated the rental unit

19. What this provision means is that a landlord is not entitled to any rent for the period of time after a tenancy has lawfully ended, which in this case was November 20, 2020.
20. There is no dispute that the Tenants paid the Landlord \$14,500.00 which was intended to satisfy the rent that would become due for the rental November 20, 2020 to April 19, 2021. The Landlord is not legally entitled to retain the amounts the Tenants paid in advance for the rental period November 20, 2020 to April 19, 2021.
21. The Landlords shall therefore be ordered to pay the Tenants \$14,500.00.
22. Regarding the interest on the last month's rent deposit, the Landlords conceded that they have not paid the Tenants any last month's rent interest. Section 106(6) of the Act states that a landlord of a rental unit shall pay interest to the tenant annually on the amount of the rent deposit at a rate equal to the guideline determined under section 120 that is in effect at the time payment becomes due.
23. The Tenants claimed \$96.67 in interest on the rent deposit. The Landlord will be ordered to pay the Tenants this amount.

It is ordered:

1. The Landlords shall pay the Tenants the sum of \$14,500. This represents amount that the Landlord have illegally retained.
2. The Landlords shall pay to the Tenant the sum of \$96.67 which represents interest due to them on the last month's rent deposit.
3. The total amount the Landlord owes the Tenants is \$14,596.67
4. The Landlord shall pay the Tenants the full amount by May 1, 2023
5. If the Landlord does not pay the Tenants the full amount owing by May 1, 2023 the Landlord will owe interest. This will be simple interest calculated from May 2, 2023 at 6.00% annually on the outstanding balance.

May 3, 2023

Date Issued

Peter Pavlovic

Member, Landlord and Tenant Board