

ONTARIO
SUPERIOR COURT OF JUSTICE
DIVISIONAL COURT

BETWEEN:

EUN HEE PARK and SANG HUN CHO	)	Self-Represented Appellants
	)	
Appellants	)	
	)	
	)	
– and –	)	
	)	
JESSICA ANELLI	)	Self Represented Respondent
	)	
Respondent	)	
	)	
	)	
	)	
	)	HEARD via videoconference:
	)	April 22, 2026

O'BRIEN J:

REASONS FOR DECISION

Overview

[1] The appellant landlords appeal the September 3, 2025 order of the Landlord and Tenant Board in which the Board found they collected and retained money in contravention of the *Residential Tenancies Act, 2006*, S.O. 2006, c. 17 (the *Act*). A review order dated September 9, 2025 dismissed the landlords' request for review.

[2] The parties initially entered into a tenancy starting on September 15, 2023 and ending on August 31, 2024. The monthly rent was \$4,600. The parties signed a new lease on June 3, 2024 for a one-year term from August 31, 2024 to August 31, 2025. They agreed to increase the rent to \$4,900 per month.

[3] On July 31, 2024, the tenant advised the landlords that, due to a change in her personal circumstances, she wanted to vacate the unit on September 30, 2024. The parties signed an

agreement in a form provided by the Board, called an N11 agreement, on August 30, 2024. They agreed to terminate the tenancy on September 15, 2024. Under that agreement, the tenant was to pay the landlord \$4900. The parties wrote a term into the N11 agreement saying that the \$4900 payment, which the term the parties wrote into the N11 said was equivalent to one month's rent and was payable "as a penalty for the early termination of a one-year lease".

[4] The tenant brought an application to the Board under s. 135 of the *Act* alleging that the landlords had collected or retained money illegally. Specifically, she said they had improperly retained excess rent, an illegal pet deposit, a refundable key deposit, and a last month's rent deposit.

[5] In the initial order, the Board found the landlords collected rent in excess of the amount allowed under the *Act* for two reasons. First, they were not permitted to increase the rent by \$300 after the first year. Second, they collected rent for the entire month of September 2024 even though the tenant vacated the unit on September 15, 2024. The Board also found the landlords illegally collected a pet deposit of \$1,000 because it was a fee not permitted by the *Act*. Similarly, the key deposit of \$100 was not permitted to be retained. Finally, the landlords did not apply what the Board considered to be a last month's rent deposit – the \$4900 payment agreed-to in the N11 agreement -- to the last month's rent. This amount needed to be returned with interest. The total amount owing by the landlords to the tenant was \$8,807.13.

[6] The Board dismissed the landlords' request for review, finding there was no serious error in the order and the test for review was not otherwise met.

[7] The landlords' primary submission is that the Board mischaracterized the parties' settlement as requiring the payment of an unlawful fee. They say the settlement did not provide for the payment of \$4900 as a condition of the tenancy; it instead represented a mutually agreed-upon consideration for the early termination of the lease. The landlords acknowledge they may have increased the rent in error from \$4600 to \$4900 and do not dispute the Board's finding on this point.

[8] For the following reasons, the appeal is dismissed.

Jurisdiction and Standard of Review

[9] Under s. 210 of the *Act*, an appeal to this court is limited to questions of law. The standard of review is correctness: *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, at para. 37.

Did the Board err in finding the fees collected by the landlords were prohibited by the Act?

[10] As set out above, the landlords' primary challenge is to the Board's treatment of the \$4900 that was provided for in the N11 and which the Board characterized as an impermissible deposit for last month's rent. I will address the pet and key deposits for completeness.

[11] There was no error in the Board's finding that these payments were prohibited by the *Act*. Paragraph 134(1)(a) of the *Act* expressly prohibits landlords from collecting or requiring a tenant to pay a "fee", "penalty", or "key deposit", unless otherwise permitted. It states:

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, prospective tenant or former 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;

[12] Although s. 17 of Ont. Reg. 516/06 outlines certain exemptions to s. 134(1), these do not apply in this case. First, there is no exemption in s. 17 for a pet deposit. Second, although s. 17(3) exempts “payment of a refundable key” the key payment in this case was not refunded.

[13] Third, s. 17(6), which exempts a payment in settlement of a court action or potential court action or an application or potential application to the Board, does not apply. There was no evidence in this case that the landlords intended to bring an application for an additional payment related to the early termination of the lease, nor under what provision of the *Act* they would do so. Indeed, the N11 expressly states the \$4900 was intended as a “penalty”, which is prohibited under s. 134(1).

[14] The Board treated the \$4900 payment as a last month’s rent deposit that was not used to pay the last month’s rent. It did not err in finding the landlords were not permitted to retain the \$4900 on this basis. Subsection 106(10) of the *Act* states a landlord can only use a rent deposit for the last rent period. The Board found the \$4900 was not used for that purpose here because the tenant had already paid a last month’s rent deposit prior to the N11 agreement. There was no error in this conclusion.

[15] I agree with the landlords that, in its analysis of this issue, the Board did not expressly address the landlords’ argument that the payment of \$4900 was a term of a settlement related to the early termination of the lease. But the Board was well aware the parties had entered into an agreement to terminate the lease early, as stated at para. 9 of its reasons. In addition, the Board is to be taken to know the law, including s. 3(1), which provides that the *Act* applies “despite any agreement or waiver to the contrary.” There is also existing Board case law to the effect that a payment required as a settlement for the early termination of a lease is not permitted: *Campbell Spence v. Robinson*, 2025 ONLTB 78499; *Serruya v. Libfeld*, 2024 ONLTB 5833. The Board correctly found that the payment was prohibited by the *Act* and did not err in law by not specifically acknowledging that the payment arose from the early termination of the lease.

[16] Finally, the Board found the landlords had illegally retained excess rent because they retained rent beyond the last date of the tenancy. Subsection. 134.1(1.1) of the *Act* prohibits a landlord from collecting rent for a period after the tenancy has ended and the tenant has vacated the unit. The Board found the parties agreed to terminate the tenancy on September 15, 2025, but the landlords retained rent for the whole month of September. There was no error in the Board finding the landlords improperly retained the rent for the last half of September.

Other Issues

[17] The landlords addressed other issues in their factum that they did not raise in their oral submissions. They allege, for example, that the Board did not address material documentary evidence. I have already addressed the landlords' primary contention, which is that the Board did not expressly discuss the impact of the settlement on the \$4900 payment. Beyond that, the Board is not required to expressly address every piece of evidence put before it. Its failure to do so is not an error of law. Similarly, to the extent the landlords disagree with the Board's weighing of or assessment of the evidence, these are factual issues that do not raise errors of law.

[18] In their written material, the landlords also counter various arguments they say the tenant raised at the Board hearing. The Board did not rely on those arguments and they therefore are not relevant and need not be addressed on appeal.

Disposition

[19] The appeal is dismissed. The tenant claimed costs of over \$2,000 but was self-represented and did not provide a bill of costs or any documentation to justify this amount. No costs are ordered.

O'Brien, J.

Released: April 24, 2026

CITATION: Park et al v. Anelli, 2026 ONSC 2448
DIVISIONAL COURT FILE NO.: DC-25-00000751-0000
DATE: 20260424

ONTARIO
SUPERIOR COURT OF JUSTICE
DIVISIONAL COURT

BETWEEN:

Eun Hee Park; Sang Hun Cho

Appellants

– and –

Jessica Anelli

Respondents

REASONS FOR DECISION

O’Brien, J.

Released: April 24, 2026