

CITATION: Corvers v. Bumbia, 2014 ONSC 985
DIVISIONAL COURT FILE NO.: 471/13
DATE: 20140212

ONTARIO
SUPERIOR COURT OF JUSTICE
DIVISIONAL COURT
A.C.J.S.C. MARROCCO, KITELEY AND WHITAKER JJ.

BETWEEN:)
)
ALISON CORVERS) *Allison J. Speigel and Jonathan D. Speigel,*
) for the Applicant (Appellant)
) Applicant)
) (Appellant))
)
- and -)
)
TANVEER BUMBIA) *Lauren D. Sigal, for the Respondent*
) (Respondent in Appeal)
) Respondent)
) (Respondent in Appeal))
)
)
) **HEARD at Toronto:** February 12, 2014

A.C.J.S.C. MARROCCO (ORALLY)

[1] There was finding of fact that the rent deposit of \$90,000 was voluntary. That finding of fact was based on the evidence before the application judge. There is no palpable or overriding error in that finding.

[2] It is our view that this case is consistent with *Royal Bank v. MacPherson* (2009), 311 D.L.R. (4th) 361 and that therefore the rent deposit was not “required” for the purposes of s. 106

of the *Residential Tenancies Act*. Therefore, there was no contravention under s. 135 of the *Residential Tenancies Act*. Therefore, there is no basis upon which we can interfere with the decision of the application judge.

[3] We agree that s. 106(6) of the *Residential Tenancies Act* required that interest be paid on this deposit and therefore we agree that the application judge made an error in law in refusing interest on the full amount of the deposit. Interest is to be calculated on the monthly declining balance at the rate of 2.5% in 2013 and 0.8% in 2014 and paid on April 17, the anniversary date of the lease.

COSTS

[4] I have endorsed the back of the Appeal Book and Compendium, “This appeal is dismissed in part and allowed in part. For oral reasons, the appeal is dismissed with the exception of the appellant’s entitlement to interest on the full amount of the deposit on a declining balance. The appellant shall pay costs to the respondent in the amount of \$6,000 with respect to the application and the appeal.”

A.C.J.S.C. MARROCCO

KITELEY J.

WHITAKER J.

Date of Reasons for Judgment: February 12, 2014

Date of Release: February 21, 2014

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2014 ONSC 985 (CanLII)

ONTARIO
SUPERIOR COURT OF JUSTICE
DIVISIONAL COURT

**A.C.J.S.C. MARROCCO, KITELEY AND
WHITAKER JJ.**

BETWEEN:

ALISON CORVERS

Applicant
(Appellant)

– and –

TANVEER BUMBIA

Respondent
(Respondent in Appeal)

ORAL REASONS FOR JUDGMENT

A.C.J.S.C. MARROCCO

Date of Reasons for Judgment: February 12, 2014
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