



Order under Section 21.2 of the Statutory Powers Procedure Act and the Residential Tenancies Act, 2006

File Number: LTB-L-070338-25-RV-IN2

In the matter of: 14, 1477 UPPER WENTWORTH ST
HAMILTON ON L9B2G3

Between: Liuna Hamilton Association c/o DMS Property Management Ltd. Landlord

And

Danielle Horning Tenant

Review and Interim Order

Liuna Hamilton Association c/o DMS Property Management Ltd. (the 'Landlord') applied for an order to terminate the tenancy and evict Danielle Horning (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-070338-25, issued on November 6, 2025.

On December 17, 2025, the Tenant requested a review of the order.

On December 18, 2025, interim order LTB-L-070338-25-RV-IN was issued, prohibiting the Landlord from re-renting the unit pending the hearing of the review.

The review was heard by videoconference on December 23, 2025.

The Landlord's representative Emily McGivern and the Tenant's representative Merima Menzildzic attended the hearing.

Reasons:

1. The Tenant's rent is subsidized under the *Housing Services Act* (HSA). Earlier this year, the Landlord required that the Tenant provide copies of her income tax assessments for 2023 and 2024 in order to confirm her subsidy eligibility. The Tenant provided the 2024 assessment but not the 2023 assessment. As a result, on June 9, 2025 the Tenant's subsidy was revoked pursuant to the processes set out in the HSA. The Tenant's rent increased to the market rate, and she did not pay the increase.
2. The Landlord then filed this application to terminate the tenancy for rent arrears. The Tenant did not attend the hearing, and an order was issued terminating the tenancy. In due course, the order was enforced and the Sheriff evicted the Tenant. The Tenant then filed this review request arguing that she was not reasonably able to participate in the hearing.

She says that due to an issue with her mailbox, she did not receive notice of the hearing and did not know about the proceeding until the Sheriff evicted her.

3. The Tenant intends to provide the 2023 tax assessment to the Landlord, and to pursue a review under the HSA of the decision to revoke her subsidy. I gather that to make that review request, she will need to provide medical documentation to explain why she did not file the request within the relevant deadline.
4. At the hearing of the review of the eviction order, the parties reached an agreement. They agreed to consent to the review, meaning that the eviction order will be cancelled and a new hearing of the eviction application scheduled. By the time the new hearing is held, the Tenant's HSA review of her subsidy revocation will likely have been decided. If the subsidy is retroactively restored, then she will not owe arrears, or at least her arrears will be much lower, and the application can probably be resolved without ending the tenancy.
5. The only dispute between the parties was at what point the Tenant should be restored to possession of the unit. The Tenant argues that she should be allowed to return to the unit immediately. If her subsidy is ultimately not restored, then after the new hearing of the eviction application, she can be evicted a second time. The Landlord argues that the Tenant should not be restored to possession until the HSA review has been decided and her subsidy restored.
6. In my view, I have the jurisdiction to restore the Tenant to possession. The caselaw establishes that I can make that order to prevent an abuse of process. An abuse of process does not require any wrongdoing by one of the parties. In this case, the review has been granted on consent and the eviction order cancelled, meaning that at this time, the tenancy has not been terminated. It would be an abuse of process for the Tenant to not be able to live in her home when her tenancy has not been terminated.
7. Having concluded that I have the jurisdiction to restore the Tenant to possession pending the new hearing of the application, it seems to me that the test I should apply to decide whether to exercise that jurisdiction is the balance of convenience. In this case, the harm to the Tenant of being homeless pending the resolution of her HSA review, especially over the holiday period, outweighs the harm to the Landlord of potentially having to enforce a second eviction if the subsidy is not restored. The balance of convenience therefore favours restoring the Tenant to possession immediately.

It is ordered that:

1. The request to review order LTB-L-070338-25, issued on November 6, 2025, is granted on consent. The order is cancelled.
2. The Landlord and Tenant Board (LTB) shall schedule a new hearing of the application. I am not seized.
3. The interim order issued on December 18, 2025 is cancelled and replaced by the following interim order:

4. The Landlord shall forthwith restore the Tenant to possession of the rental unit. This obligation begins from the date of my oral decision given at the hearing on December 23, 2025.

January 8, 2026

Date Issued

Dale Whitmore

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.