



Order under Section 77(8) Residential Tenancies Act, 2006

Citation: 12528061 Canada Inc. v Caird, 2026 ONLTB 1883

Date: 2026-01-06

File Number: LTB-L-043654-25-SA

In the matter of: 1, 52 PATRICK ST
KINGSTON ON K7K3N8

Between: 12528061 Canada Inc. Landlord

And

Tom Caird Tenant

12528061 Canada Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Tom Caird (the 'Tenant') because the Tenant gave notice to terminate the tenancy.

The Landlord's application was resolved by order LTB-L-043654-25, issued on June 9, 2025. This order was issued without a hearing being held.

On June 16, 2025, the Tenant filed a motion to set aside order LTB-L-043654-25. The motion was heard by videoconference on July 23, 2025. Only the Landlord's Legal Representative attended the hearing.

The Tenant's motion to set aside was resolved by LTB-L-043654-25-SA issued on July 29, 2025.

On August 6, 2025, the Tenant requested a review of the order and that the order be stayed until the request to review the order is resolved. The request to review was heard by videoconference on August 25, 2025.

On September 16, 2025, interim order LTB-L-043654-25-RV-IN2 was issued, granting the Tenant's request to review and cancelling order LTB-L-043654-25-SA issued on July 29, 2025. The Tenant's motion to set aside was directed to a hearing.

The motion was heard by videoconference on November 20, 2025.

The Landlord's Legal Representative, Lorrie McCullough, and the Tenant's Legal Representative, John Done, attended the hearing. Kristin MacLeaod ("KM") and Patrick Richardson ("PR") attended the hearing as witnesses for the Tenant.

Determinations:

Preliminary issue – Adjournment Request

1. The parties first appeared before the Board at 11:58 a.m. The Tenant was not present and the Tenant's Legal Representative sought an adjournment submitting the Tenant's whereabouts were unknown. The Tenant emailed his social worker, PR, to cancel their meeting in the morning on the hearing date and in the email, the Tenant noted that he was in the hospital for three days. From the email, PR did not get the impression that the Tenant was still in the hospital.
2. The adjournment request was denied. In making this finding, I considered that the Tenant's Legal Representative did not provide any documentary evidence to support the Tenant's possible health issues.
3. The Divisional Court's decision in *Wang v. Oloo*, 2023 ONSC 1028 (Div. Ct.) (CanLII) gives guidance on the type of information that should be included in a medical note to support a request to adjourn a hearing. At paragraph 10, the Divisional Court affirms:

a doctor's note must obtain [sic.] sufficient information to enable the court or tribunal to exercise its own judgment as to whether the adjournment should be granted. This should, at a minimum, describe the diagnosis, the effect of the patient's condition on their ability to attend and participate in the hearing, and a statement as to when, in the doctor's opinion the patient will be well enough to attend court and participate as required.

4. In the present case, the Tenant's Legal Representative did not provide a doctor's note or records of hospitalization. Without reliable information about the Tenant's medical conditions and the impact those conditions may have, I am not persuaded by the Tenant's Legal Representative's argument for an adjournment. The Tenant's Legal Representative simply could offer an explanation as to why the Tenant was not present.
5. The matter was held down and the Tenant's Legal Representative was provided some time to contact the Tenant and/or hospitals.
6. The matter was recalled at 2:25 p.m. The Tenant's Legal Representative again requested an adjournment submitting that the Tenant was released on November 18, 2025 after a 72-hour psychiatric hold.
7. Again, the adjournment request was denied. Even if I accept the submissions of the Tenant's Legal Representative and the Tenant was in the hospital two days before the hearing, there was no explanation as to why the Tenant was not present at the hearing. Since his release, the Tenant managed to contact PR to cancel their meeting. The motion before the Board was filed by the Tenant and the Tenant has had a Legal Representative since at least August 25, 2025, when the parties were before the Board for the review hearing. The Tenant was able to email the Board on October 16, 2025 in response to the Board emailing the parties the Notice of Hearing on October 15, 2025.
8. Given the lack of information and the time provided to the Tenant's Legal Representative, adjourning the matter, in my view, would offend the Board's mandate under section 183 of the Act Board to adopt the most expeditious method of determining the questions arising in a proceeding that affords to all persons directly affected by the proceeding an adequate opportunity to know the issues and be heard on the matter.

Set Aside Motion

9. By way of background, the Tenant provided the Landlord with notice to move out on June 1, 2025 via email on March 23, 2025. The Landlord filed an L3 application with the LTB based on the Tenant's notice on May 28, 2025 and obtained an *ex-parte* eviction order.
10. The Tenant filed this motion to set aside the eviction order. The Tenant was not present at the hearing. The position of the Tenant's Legal Representative is that the notice is invalid and that the Tenant had no intention to terminate the tenancy.
11. The Tenant's Legal Representative submitted that the Board had no jurisdiction to issue an *ex-parte* order based on an invalid notice. The Tenant's Legal Representative argues that the Tenant's notice is not invalid as it did not have the complete address, did not have the last day of the month as the termination date, and was not in the official N9 form approved by the Board.
12. I disagree with the Tenant's Legal Representative's submissions that the Tenant's notice is invalid. Section 202 of the *Residential Tenancies Act, 2006* (the "Act") requires the Board to ascertain the real substance of a transaction. Furthermore, section 212(1) of the Act provides that substantial compliance with the Act respecting the contents of notices is sufficient. The Legislature recently enacted section 212(2), which provides as follows:

For greater certainty, an error in the contents of a form, notice or document still constitutes substantial compliance with this Act, as long as the error does not significantly prejudice a party's ability to participate in a proceeding under this Act.

13. While the Landlord's initial filing of the Tenant's notice did not show apartment 1, I find it more likely than not that the Landlord inadvertently uploaded a snippet of the Tenant's email. The Landlord submitted into evidence the full email from the Tenant on March 23, 2025 showing that the Tenant's email did state "apartment 1". Furthermore, there was no evidence to suggest that the email did not come from the Tenant or that the Tenant occupies any other rental unit.
14. With respect to the Tenant's Legal Representative's submission that the Tenant's notice was invalid due to the Tenant not utilizing a formal N9 form and the termination date not being the last day of a month, I am not satisfied that these aspects invalidate the Tenant's notice. As noted above, substantial compliance with the Act respecting the contents of notices is sufficient. In my view, the email has the critical components of a notice given pursuant to section 47 of the Act. It contains the Tenant's intention to vacate the rental unit on a specific date and is clear as to which unit the Tenant is vacating. There was no evidence before the Board to suggest that the Landlord did not accept the Tenant's notice. As such, considering section 202 and 212 of the Act, I find that the parties understood and agreed that the tenancy would be terminated as of June 1, 2025.
15. With regards to the Tenant's Legal Representative's submission that the Tenant had no intention to terminate the tenancy, the evidence provided by the Tenant's Legal Representative was all hearsay. The Tenant was not present to give evidence on his circumstances and his reason for sending the Landlord the email on March 23, 2025 indicating his desire to move out of the rental unit on June 1, 2025.

16. While the Tenant's Legal Representative submitted that the Tenant was experiencing a health issue due to a lapse of medication in March 2025, the evidence provided by the Tenant's witnesses were hearsay and circumstantial, at best. PR took over as the Tenant's worker as of September 9, 2025. KM acknowledged that she referred the Tenant to PR's predecessor at the end of February 2025 and did not see the Tenant in March 2025. Neither of the witnesses communicated with the Tenant in March 2025 and provided no direct evidence of the state or condition of the Tenant in March 2025 when the Tenant emailed the Landlord on March 23, 2025. I also note that KM or PR are not medical doctors who offer medical services or diagnoses but neither raised a concern about the Tenant's intellect ability or mental capability. Without more meaningful evidence, I cannot make an interference that the Tenant did not know what he was doing when he emailed the Landlord on March 23, 2025.
17. Based on the evidence before the Board, I am satisfied that the Tenant provided notice to the Landlord and the Landlord accepted the Tenant's notice. As noted above, I am not persuaded by the Tenant's Legal Representative that the notice was invalid nor am I persuaded that the Tenant was not mentally sound when the notice was provided given the circumstantial evidence before the Board.
18. I find that it would be unfair to set aside the eviction order having considered all of the circumstances. The Tenant gave the Landlord notice to terminate his tenancy and ought to have understood that this tenancy was going to be terminated as a result. There was no evidence before the Board that the Tenant gave notice under duress or was coerced into giving the Landlord notice. The Landlord was in their right to file an application to terminate the tenancy pursuant to section 77(1) of the Act and the Board, pursuant to section 77(4), had the jurisdiction to terminate the tenancy. Without the Tenant's direct evidence, it would be unfair to the Landlord to invalidate this notice to terminate this tenancy because the Tenant changed his mind.
19. With regards to when to lift the stay, the Tenant's Legal Representative requested that the eviction be delayed for twelve months. The Landlord's Legal Representative was agreeable to a delay until January 31, 2025. While the Tenant was not before the Board to provide his personal circumstances, I am satisfied that the Tenant has health issues and has limited income via ODSP and that a delay is warranted.
20. The Landlord provided no compelling reasons to deny the Tenant additional time. However, I find twelve months to be unreasonable given that the Tenant's notice has a move out date of June 1, 2025 and that the Tenant has support that may be able to assist him or connect him to resources. Having considered all of the disclosed circumstances in accordance with section 77(8)(c), I find a delay to March 31, 2026 to be fair. The Tenant is provided some additional time to secure alternative housing.

It is ordered that:

1. The motion to set aside Order LTB-L-043654-25, issued on June 9, 2025, is denied.
2. The stay of Order LTB-L-043654-25, is lifted on March 31, 2026.

January 6, 2026
Date Issued

Vicky Liu
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.