



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

Citation: Hastings Local Housing Corporation v Ashley, 2026 ONLTB 2502

Date: 2026-01-08

File Number: LTB-L-036467-25-RV

In the matter of: 408, 24 BROWN ST
BELLEVILLE ON K8N2S7

Between: Hastings Local Housing Corporation Landlord

And

Tammy Ashley Tenant

REVIEW ORDER

Hastings Local Housing Corporation (the 'Landlord') applied for an order to terminate the tenancy and evict Tammy Ashley (the 'Tenant') because:

- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant; and
- the Tenant or another occupant of the rental unit has committed an illegal act or has carried out, or permitted someone to carry out an illegal trade, business or occupation in the rental unit or the residential complex.

This application was resolved by order LTB-L-036467-25 issued on October 16, 2025.

On October 29, 2025, the Tenant requested a review of the order and that the order be stayed until the request to review the order is resolved.

On October 30, 2025 interim order LTB-L-036467-25-RV-IN was issued, staying the order issued on October 16, 2025.

This request for review was heard by videoconference on November 25, 2025.

The Landlord's Agent, Dana Dufford, and the Tenant attended the hearing. Cameron Parr, Mary Brindle, and Jacqueline Viau attended as witnesses for the Landlord.

Determinations:

1. On the basis of the submissions made in the request, I am not satisfied that there is a serious error in the order or that a serious error occurred in the proceedings and that the Tenant was not reasonably able to participate in the proceeding.

2. In the review request, the Tenant asserts the following:

I have been informed by a representative [sic] of the Landlord Tenant [sic] Board that the order LTB-L-036467-25 contains a serious error. The order is filed under Section 69, which is for orders concerned with late/missing rental payments. My eviction states reasons that are unrelated to this section and are predicated on entirely unrelated circumstances.

I also had legal counsel I found to be entirely inadequate and unprepared to properly represent me during my hearing that resulted in this order. My representative [sic] was Samanta Hayward, a paralegal with a legal clinic in my area known as Community Advocacy and Legal Centre (CALC). I sought help from CALC at the advisement of others because I was told they specialize in landlord-tenant [sic] disputes, and because their services are free. Samantha did not make time to meet with me or discuss my case at all prior to the hearing, and she also came to my hearing with no documentation, arguments [sic], or plans to proceed whatsoever. Samantha only wanted to seek an adjournment [sic], despite an adjournment [sic] having already been requested by myself earlier and having said request declined.

The mishandling of my case by my legal counsel, as well as the situation as a whole, was incredibly emotionally [sic] straining and stressful. I am already living with severe mental health concerns (Complex PTSD, Borderline Personality Disorder [sic], and Severe Anxiety, all diagnosed). These issues all compounded into a mental breakdown prior to and during the beginning of my hearing that made me incapable of participating in the hearing functionally.

Serious Error

3. The Tenant asserts the order contains a to a serious error and states that section 69 of the *Residential Tenancies Act, 2006* (the 'Act') pertains to a termination notice served based on persistently late payments of rent and in no way relates to the notice of termination she received from the Landlord.
4. Guideline 8 of the Board's Interpretation Guideline provides the Board with the ability to grant a review hearing when it is satisfied that the original hearing order contains a serious error. Under the heading of Guideline 8, "Grounds for Review: Serious Error", it states:

"Serious error includes:

- *An error of jurisdiction. For example, the order relies on the wrong section of the RTA or exceeds the LTB's powers. This issue need not have been raised at the original hearing;*
- *A procedural error which raises issues of natural justice;*
- *An unreasonable finding of fact on a material issue which would potentially change the result of the order;*
- *New evidence which was unavailable at the time of the hearing, and which is potentially determinative of one or more central issues in dispute;*

- *An error in law. The LTB will not exercise its discretion to review and order interpreting the RTA unless interpretation conflicts with a binding decision of the Courts or is clearly wrong and unreasonable; and*
- *An unreasonable exercise of discretion which results in an order outside the usual range of remedies or results and where there are not reasons explaining the result.”*

[Emphasis added]

5. As explained at the hearing, section 69 of the *Residential Tenancies Act, 2006* (the ‘Act’) sets out that: a landlord may apply to the Board for an order terminating a tenancy and evicting the tenant if the landlord has given notice to terminate the tenancy under this Act or the *Tenant Protection Act, 1997*. Section 69 does not set out a specific notice of termination only that a notice of termination must be given.
6. Based on the above, the Tenant accepted there is no serious error in the order. As such, the allegation of serious error is dismissed.

Not reasonably able to participate

7. In paragraphs 2 and 3 of the review request, the Tenant asserts she had inadequate counsel at the hearing and due to her struggles with mental health and a breakdown during the hearing, she was not reasonably able to participate in the proceeding.
8. I have reviewed the Board’s recording and the Board’s order. At the hearing, and as reflected in the order, Samantha Hayward, Tenant Duty Counsel for Hastings County, requested an adjournment on the Tenant’s behalf. She advised the hearing Member that the Tenant had attended the Legal Aid office on the morning of October 16, 2025, but after signing into the videoconference became agitated and was experiencing emotional distress. Ms. Hayward stated that the Tenant left the Legal Clinic at 9:42 a.m. and did not return, nor did she sign back into the videoconference from another location. Although she was not formally retained by the Tenant, Ms. Hayward felt it necessary to request the adjournment.
9. In the order the Member determined:

Having considered the factors in Rule 21.8, the reason for the adjournment request, the position of the parties the prejudice to the parties, I am not satisfied that an adjournment is appropriate. The Tenant disconnected from the hearing without explanation and has not returned almost two hours later. The adjournment request is denied, and the matter will proceed to be heard. However, the matter was further held down to the afternoon to permit the Tenant an opportunity to participate in the hearing. In the afternoon session the Tenant was still not present, so the matter proceeded to be heard.

10. In the Ontario Court of Appeal decision of *D.W. v. White*, 2004 CanLII 22543 (ON CA) the court outlined that the availability of the ground of ineffective assistance of counsel should be limited to cases involving some overriding public interest of cases engaging the interests of vulnerable persons like children or persons under a mental disability or cases in which one party to the litigation is somehow complicit in the failure of counsel opposite to attain a reasonable standard of representation.

11. In my view, Ms. Hayward acted diligently on the Tenant's behalf. Although she was not formally retained and the Tenant had only attended the Legal Clinic on the day of the hearing, Ms. Hayward felt compelled to request an adjournment based on the information she received regarding the Tenant's agitation and mental state. The Member then waited an additional two hours for the Tenant to sign back into the videoconference before calling the matter forward, providing the Tenant with sufficient time to return to the Legal Clinic or join from another location.
12. By failing to update Tenant Duty Counsel on her intentions and leaving the Legal Clinic office, I find that the Tenant voluntarily forwent his right to a hearing. In *Kathryn King-Winton v. Doverhold Investments Ltd.*, 2008 Canlii 60708, the Divisional Court held: "being reasonably able to participate in the proceeding must be interpreted broadly, natural justice requires no less." However, I do not believe that even a broad interpretation of the right to be heard is meant to capture a situation where a party has intentionally and knowingly left a hearing. I find that the Tenant was always able to participate in the hearing and her failure to do so was the result of her own unreasonable choice of actions. Therefore, I am not satisfied on a balance of probabilities that the Tenant was not reasonably able to participate in the hearing.
13. As a result, the Tenant's request for review shall be denied.

The Lifting of the Stay

14. As I am satisfied that the Tenant's request to review must be denied, the only remaining issue before the Board is when to lift the stay.
15. The Tenant argued she does not want to vacate the rental unit and could not provide any information on how much time she would need to find alternative accommodations. The Tenant testified she suffers with numerous mental health issues and has no where to go. The Tenant was asked if she provided the Landlord or the Board with any documentary evidence to support her claims relating to her health conditions to which she responded she did not.
16. The Tenant testified she has lived in the rental unit since 2016, and her rent is RGI. She stated the waitlists for RGI units are years long and she cannot financially afford market rent in the same area.
17. The Landlord's agent submitted that the Landlord is requesting that the stay be lifted immediately. She stated that despite numerous warnings, letters, and the issuance of N5 and N6 notices of termination, the Tenant's behaviour has not improved, and she continues to activate the fire alarms without just cause. These disruptions are not only costly for the Landlord but, more importantly, have a serious impact on the lives of the other residents in the complex.
18. Based on the submissions of the parties and in consideration of the circumstances of the Landlord and the Tenant, the stay will be lifted on February 28, 2026. This provides additional time for the Tenant to move, bearing in mind that the safety of the other tenants in the residential complex is tantamount.
19. This order contains all of the reasons within it. No other reasons shall be given.

It is ordered that:

1. The request to review order LTB-L-036467-25 issued on October 16, 2025 is denied. The order is confirmed and remains unchanged.
2. The interim order issued on October 30, 2025 is cancelled. The stay of order LTB-L-036467-25 is lifted on February 28, 2026.

January 8, 2026
Date Issued

Susan Priest
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.