



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

Citation: Vanderschot v Rettinger, 2026 ONLTB 3155

Date: 2026-01-14

File Number: LTB-L-037855-25-RV

In the matter of: 356 WIDDER ST E
ST MARYS ON N4X1B4

Between: Ernie Vanderschot Landlords
Margaret Vanderschot

And

Irene Rettinger Tenant

Review Order

Ernie Vanderschot and Margaret Vanderschot (the 'Landlords') applied for an order to terminate the tenancy and evict Irene Rettinger (the 'Tenant') because:

- the Landlords in good faith required possession of the rental unit for the purpose of residential occupation for at least one year.

This application was resolved by order LTB-L-037855-25 issued on November 26, 2025.

On December 6, 2025, the Tenant's agent Carrie Rettinger requested a review of the order and that the order be stayed until the request to review the order is resolved.

On December 9, 2025, interim order LTB-L-037855-25-RV-IN was issued, staying the order issued on November 26, 2025.

The review request was heard by videoconference on January 5, 2026.

The Landlord, the Landlords' agent Vera Vanderschot, the Landlords' supports Ingrid Vanderschot and Isaiah Maytanong, the Landlords' witness Dave Harwood, the Tenant and the Tenant's agent Carrie Rettinger attended the hearing.

The Tenant declined to speak with Tenant Duty Counsel.

Determinations:

Background

1. The initial hearing was held by video conference on July 31, 2025.

2. However, the presiding Member resigned from the Board. As per the *Statutory Powers Procedure Act* and the LTB procedures, the Associate Chair of the LTB reassigned the matter to a different adjudicator. The reassigned adjudicator reviewed the application record and the hearing recording and determined there was sufficient detail in the existing evidentiary record, including the hearing recording to render a decision. The reassigned Member did not believe it was necessary to rehear some or all of the proceeding. The final order was issued on November 26, 2025 based on the evidence and submissions of the parties at the July 31, 2025 hearing.
3. I find no reason to question the authority of the reassigned adjudicator and her decision related to the sufficiency of details in the evidentiary record which resulted in the November 26, 2025 order.

Preliminary Issue – Divisional Court Stay

4. At the onset of the hearing, the Tenant's agent/daughter Carrie Rettinger (CR) said the Board did not have the jurisdiction to hear this matter due to a stay of proceedings. CR said a notice of appeal has been served and filed regarding the underlying tenancy, which triggers an automatic stay of the Board's jurisdiction.
5. The application record contains a Form 61A.1 Notice of Appeal related to LTB-L-073552-25 and LTB-L-073552-25 RV. The record does not contain a Form 61A.1 Notice of Appeal for the present matter. CR confirmed a notice of appeal has not been made regarding the L2/N12 matter.
6. It was CR's position that the notice of appeal filed for the L1 matter should impact any and all applications as per s.210 of the *Residential Tenancies Act, 2006* (the 'Act').
7. Based on the submissions of CR, I am not satisfied that the Notice of Appeal for the L1 related files encompasses the matter before me related to the L2/N12 application. There are multiple grounds to terminate a tenancy and the filing of a notice of appeal for one matter does not prevent other applications involving the same tenancy where there may be a pending action in the Superior Court. An appeal to divisional court on an application about rent does not prevent a Landlord from pursuing other grounds for a termination of tenancy. As such, I find the Board has jurisdiction to proceed with the L2/N12 application and this related review request.

Is CR a Tenant?

8. At the hearing, CR said that the application should be amended to include her as a Tenant. She said that there are multiple tenancy agreements and she is a Tenant. No documentary evidence was led to support this claim.
9. However, I note, CR did not make this claim at the original hearing and this claim was not part of the review request.
10. In fact, in the written request to review the order, CR describes herself as the Tenant's Agent/Daughter.

11. There was no persuasive evidence led at the hearing to indicated that CR is actually a Tenant. Rather, I find CR is an occupant.

The Review Request

12. In the review request, CR states the November 26, 2025 order contains serious errors. To summarize, CR believes the reassigned adjudicator failed to consider the medical disability of CR. The new member did not have the benefit of participating at the original hearing and therefore missed important non-verbal communication that may have changed the outcome of the order.
13. CR also states that the reassigned Member used unreasonable discretion in her s.83 considerations and placed more weight on the Landlords' circumstances than the circumstances of the Tenant or CR. CR believes that the new adjudicator did not weigh the full medical evidence and missed important information.
14. CR believes that when the matter was reassigned to a new adjudicator there should have been a new hearing. Failure to do so resulted in unfair due process. CR believes that all applications before the Board should have been scheduled to be heard together.
15. CR confirmed that she was permitted to participate at the hearing, lead evidence and submission specific to s.83 as it relates to relief from eviction. However, CR believes that the reassigned adjudicator would have likely made a different finding had she been privy to non-verbal communications.
16. The Landlord does not believe the order contains any serious errors. The Landlords' agent said that all parties were afforded opportunity to lead their evidence and this would have been captured on the hearing recording. The written order confirms various aspects of the hearing that were considered by the Member, including s.83 relief.

Analysis

17. Overall, I found CR's position regarding the reassignment insufficient to establish a serious error in the order or in the proceedings.
18. The reassigned adjudicative reviewed the application record and the hearing recording which is supported by the entirety of the November 26, 2025 order. The Member took care in capturing amendments, preliminary issues, an analysis of the submissions and a detailed analysis of both the Landlords', the Tenant and CR's circumstances. The Member considered the Tenant's and CR's medical and financial circumstances in detail. Having considered the issues and prejudice, the Member exercised discretion as per s.83 and delayed termination of the tenancy to January 31, 2026.
19. In my view, the Member had the information required via the application record and the hearing recording to make her decision and that decision falls within a reasonable range of outcomes. I do not find it applicable or reasonable for the Member to consider non-verbal communication at a hearing and I do not find this would have altered the outcome of the order. Decisions are based on the best evidence before the Board and on a balance of probabilities; not on gestures made by parties at a hearing.

The Discretionary Decision

20. CR believes the reassigned adjudicator used unreasonable discretion in refusing to grant relief from eviction.

21. Pursuant to Guidelines #8 Review of an Order:

Serious error includes:

...

Orders granting relief from eviction (RTA s. 83(1)) or awarding specific remedies involve an exercise of the original hearing Member's discretion and are entitled to deference. The LTB will not exercise its discretion to review these types of decisions where the result is within the range of reasonable, acceptable outcomes.

22. Although the Board's Guidelines are not binding, I see no reason not to follow the Guideline in this instance. The Member's decision to grant the Landlords application and delay the termination of tenancy was clearly reasonable in the circumstance, and that decision cannot properly be the basis for a review.

23. Paragraph 9 of the November 26, 2025 order, shows the Member considered the circumstances of the Tenant, CR and the Landlords. The Member weighed the needs of the Landlords and the Tenant and arrived at the conclusion of granting delayed eviction. Given the evidence before the Board, is simply cannot be said that the decision to grant the application with a delay in termination was unreasonable. A Member's exercise of discretion can only be successfully challenged upon review if it can be demonstrated that the Member exercised his or her discretion in an unreasonable manner. I cannot find the Member's decision was unreasonable.

24. The LTB's process to reassign an adjudicator and the steps taken by that Member, in this case, were conducted in a procedurally fair manner. The parties fully participated at the original hearing and the reassigned adjudicator believed this was sufficiently captured in the hearing recording and application record.

25. Given all of the above, I am not satisfied that there is a serious error in the Order or a serious error occurred in the proceeding. The request for review must be denied.

26. This order contains all of the reasons for the decision within it. No further reasons shall be issued.

It is ordered that:

1. The request to review order LTB-L-037855-25 issued on November 26, 2025 is denied. The order is confirmed and remains unchanged.
2. The interim order issued on December 9, 2025 is cancelled. The stay of order LTB-L-037855-25 is lifted on January 31, 2026.

January 14, 2026
Date Issued

Dana Wren
Member, Landlord and Tenant Board

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