



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

Citation: Rosal v Hillier, 2026 ONLTB 3357

Date: 2026-01-07

File Number: LTB-L-073076-23-RV

In the matter of: BASEMENT, 270 VERDUN RD
OSHAWA ON L1H5T3

Between: The Estate of Susana Rosal
Balvantkumar Ganpatbhai Desai

Landlords

And

Jennifer Hillier

Tenant

Review Order

The Estate of Susana Rosal and Balvantkumar Ganpatbhai Desai (the 'Landlords') applied for an order to terminate the tenancy and evict Jennifer Hillier (the 'Tenant') because:

- the Landlord requires possession of the rental unit in order to convert the unit to a non-residential use.

The Landlords also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was resolved by order LTB-L-073076-23 issued on December 23, 2025.

On January 6, 2026, the Landlord, the Estate of Susana Rosal, requested a review of the order.

A preliminary review of the review request was completed without a hearing. In determining this request, I reviewed the materials in the LTB's file as well as the audio recording for this hearing.

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.
2. The Landlord's application is based on an N13 notice of termination claiming they required possession of the rental unit to convert it to use for a purpose other than residential premises.
3. The Landlord's Legal Representative, Mr. Sivapatham, submits it was a serious error on the part of the Member to consider and rely on testimony given by the Landlord's witness

Ananthacunaran Kanapathippillai (AK) concerning potential plans to sell the rental unit. AK is the husband of the deceased Landlord Susana Rosal and the executor of the estate.

4. Mr. Sivapatham submits AK's testimony was given while he was in a vulnerable and emotional state and that this testimony was essentially speculation about what he might do with the unit in the future. The review request states that since AK had no definitive plans to sell the unit, the Member seriously erred in relying on this testimony. The hearing recording shows Mr. Sivapatham made no submissions of this kind at the hearing.
5. The presiding Member is entitled to consider the testimony the Landlord presents at the hearing. This includes testimony of their witnesses. If the Landlord believes their witness is not in an appropriate state of mind to provide testimony, they can request an adjournment or choose not to call such witness to give testimony. Here, the Landlord proceeded with the testimony of AK and it was therefore not an error for the Member to consider it. The Landlord's desire to now have this testimony assessed differently after the fact, is not good cause for review. The Board's review process is not a continuation of the hearing meant to provide parties the opportunity to argue a matter differently in the hopes of a different outcome.
6. Even if this testimony had not been given at all, or had the Member found the testimony speculative as Mr. Sivapatham now states it is, the outcome of the proceedings would not have changed. The order shows, with sufficient reasons, that there was no evidence presented that the Landlord intends to convert the unit to non-residential premises.
7. Amalgamating previously rented space into the overall property to form one single family dwelling, as was one of the stated intentions of AK, does not change the nature of the space from residential premises to non-residential premises. Space that was once used as a kitchen or dining area that is now used a rec room or storage space for personal property is still space used for residential purposes. The Member's conclusions that none of the intended uses for the rental unit amounts to a conversion to non residential premises is a viable interpretation of the Act. Reasonable findings of the presiding Member will not be interfered with on review.
8. The Member's conclusion that the appropriate notice of termination should have been an N12 notice given the AK's plans to sell the property is secondary to the main issue that had to be determined. That being whether there was sufficient evidence establishing conversion to non-residential premises. As such, even if this supplementary finding is an error, the error is not a serious error that would have changed the outcome of the proceeding. To succeed, the Landlord had to establish on a balance of probabilities that they genuinely intend to convert the rental unit to non residential premises and they did not do so. Changing the status of rented space to non-rented space within a single-family dwelling does not amount to a conversion to non-residential premises.
9. For these reasons, I am not satisfied the Landlord has shown the order contains a serious error or that a serious error occurred in the proceedings. Accordingly, the Landlord's request for review is denied.

It is ordered that:

1. The request to review order LTB-L-073076-23 issued on December 23, 2025 is denied.
The order is confirmed and remains unchanged.

January 7, 2026
Date Issued

John Cashmore
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.