



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

Citation: himes v Boyd, 2026 ONLTB 4398

Date: 2026-01-16

File Number: LTB-L-055309-25-RV

In the matter of: 46 CATHERINE ST
NEW HAMBURG ON N3A1Z8

Between: Allen William Himes Landlord

And

Shannon Boyd Tenants
Dalton Boyd

Review Order

Allen William Himes (the 'Landlord') applied for an order to terminate the tenancy and evict Shannon Boyd and Dalton Boyd (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was resolved by order LTB-L-055309-25 issued on September 19, 2025 and based on a hearing that took place on September 11, 2025 where only the Landlord attended.

On October 22, 2025, the Tenants requested a review of the order and that the order be stayed until the request to review the order is resolved.

On October 23, 2025 interim order LTB-L-055309-25-RV-IN was issued, staying the order issued on September 19, 2025. The Tenant alleged that they were not reasonably able to participate in the hearing.

This review was heard by videoconference on November 18, 2025.

The named Tenants legal representative, Alfred Chinambu, and the named Landlord attended the hearing.

The named Tenant, Shannon Boyd, signed in for the hearing, but they left the hearing at 9:31am once the matter was called stating they were sick.

Determinations:

1. Although the named Tenants requested a review of the order mostly based on an allegation that they did not receive notice of the hearing for September 11th, after taking

submissions from both parties, I find that the review must be granted because a serious error occurred in the proceedings.

2. Pursuant to the order issued on September 19, 2025 the named Landlord was granted termination of the tenancy and an order for the payment of arrears of rent.
3. However, at the review hearing, both parties agreed that the living accommodation required them to share a kitchen and bathroom, and this had been the case for about 13 years until the named Landlord vacated the property on or about May of 2024 due to mounting conflict in their personal relationship.
4. Subsection 5(i) of the *Residential Tenancies Act, 2006* (the 'Act') states that the Act does not apply to living accommodation whose occupant or occupants are required to share a bathroom or kitchen facility with the owner, the owner's spouse, child or parent or the spouse's child or parent, and where the owner, spouse, child or parent lives in the building in which the living accommodation is located.
5. Accordingly, the Board lacks the jurisdiction to consider the Landlord's application because the unit is clearly exempt pursuant to subsection 5(i) of the Act. On this basis it was a serious error to grant the application and issue an order for arrears of rent or termination of the tenancy and the review must be granted on this basis and the original application dismissed.
6. The Board has no jurisdiction to terminate a tenancy if the unit is exempt under the Act.
7. An oral decision was given at the hearing and this order is reflective of that decision.

It is ordered that:

1. The request to review order LTB-L-055309-25 issued on September 19, 2025 is granted. The order is cancelled and replaced with the following order:
2. The Act does not apply.
3. The Landlord's application is dismissed.

January 16, 2026

Date Issued

Terri van Huisstede

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.