



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

File Number: LTB-L-064736-25-RV

In the matter of: 122 CHURCHLAND DR
BARRIE ON L4N8N8

Between: 2478405 Ontario Inc Landlord
Alexander Pomeransky

And

Devon Elshaw Tenant
Rebecca Tabor

Review Order

2478405 Ontario Inc and Alexander Pomeransky (the 'Landlord') applied for an order to terminate the tenancy and evict Devon Elshaw and Rebecca Tabor (the 'Tenant') because the Landlord requires possession of the rental unit in order to demolish the unit.

This application was resolved by order LTB-L-064736-25 issued on January 5, 2026.

On January 9, 2026, the Landlord requested a review of the order.

A preliminary review of the review request was completed without a hearing.

Determinations:

1. The Landlord's review request (RTR) is based upon serious error.
2. By way of background, the Landlord served the Tenants with a Form N13 as a result of a proposed "demolishment" of the rental unit. The member ultimately dismissed the Landlord's application, finding that the proposed work is more akin to a "renovation".
3. The Landlord RTR alleges the member misapprehended the applicable legal test as well as the definition of "demolition" as described in the Divisional Court decision in *Two Clarendon Apartments Limited v Sinclair*, 2019 ONSC 3845 ("*Clarendon*"). The Landlord specifically submits the member erred because the rental unit is "*being divided, reduced, and fundamentally reconfigured...*"; thus the proposed altered state of the rental unit is a demolition – and not a renovation as determined in the order issued January 5, 2026 (the "Order")

4. On the basis of the submissions made in the request, I am not satisfied there is a serious error in the order or that a serious error occurred in the proceedings.
5. As a starting point, paragraph 6 of the Order shows the member correctly identified the applicable statutory provisions under the *Residential Tenancies Act*, 2006 (“Act”) as follows:

Section 73 of the Act requires that the Board shall not make an eviction order based on an N13 unless it is satisfied that:

- a. The Landlord intends in good faith to carry out the activity on which the notice was based; and,
 - b. The Landlord has obtained all necessary permits or other authority required to carry out the activity, or has taken all reasonable steps to obtain them if they cannot be obtained until the unit is vacant
6. The Divisional Court has previously commented upon the differences between a demolition and a renovation and ultimately upheld the Board’s prior reasoning and approach in distinguishing between the two, as follows

[6] The Board concluded at paras. 13 and 14:

13. **In a situation where the rental unit continues to exist, albeit in an extremely altered form,** it is possible for the tenant to exercise a right of first refusal, **because the rental unit is still there**; the tenant may move back and continue the tenancy. In a situation where the rental unit is gone, it is not possible for the tenant to exercise a right of first refusal: the rental unit is no longer there and so the tenant cannot move back. The fact that the Act distinguishes renovations and demolitions by the tenant’s right of first refusal shows that the intention of these sections of the Act is to preserve tenancies where it is possible to do so.

14. Accordingly, **a project will be defined as a renovation under the Act in a case where it is possible for the tenant to move back into the unit** and a project will be defined as a demolition where it is not possible for the tenant to move back into the unit. [emphasis added]

7. In the current situation, the Landlord notes the square footage or perimeter of the rental unit would be reduced/altered, thus suggesting a “demolishment”. The Landlord relies upon the recent LTB decision in *Art Rossel Construction Ltd. v. Martin*, 2025 ONLTB 11801

(“*Art Rossel Construction*”) which found a unit ceased to exist due to changes in perimeter, outer boundaries and positioning of entry doors.

8. While persuasive, the LTB decision in *Art Rossel Construction* was not binding upon the member. Moreover, I am not persuaded that the factual changes in square footage or perimeter are determinative of whether or not the Landlord is proposing to demolish or renovate the rental unit. While admittedly in *Clarendon* the “*the work would keep the outer boundary of the unit intact*”, the Court in *Clarendon* specifically contemplated a renovation as being a situation where the rental would continue to exist “albeit in an extremely altered form”. In my view, the member acted reasonably in finding this is what happened here, notwithstanding the change in square footage or perimeter. In this regard, the Order shows the member carefully considered the proposed changes and based upon the evidence presented, found that “*it would still be possible for the Tenants to move back into a unit at this address once the work is completed*”. In my view, the member acted reasonably in distinguishing between a demolition and renovation as per the guidance and approach set out in *Clarendon*.
9. While it is clear the Landlord disagrees with the member’s findings, the purpose of the review process is not to provide parties with an opportunity of relitigating the issues in the hopes of a better outcome. Moreover, a request will not be granted simply because a review adjudicator might have come to a different conclusion about the evidence. As I am not satisfied the Landlord has identified a serious error in the order, the Landlord’s review request must be denied.

It is ordered that:

1. The request to review order LTB-L-064736-25 issued on January 5, 2026 is denied. The order is confirmed and remains unchanged.

January 19, 2026
Date Issued

Peter Nicholson
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.