



**Order under Section 87 / 88.1
Residential Tenancies Act, 2006**

Citation: ALMA Oshawa GP Inc. v Malik, 2026 ONLTB 7723

Date: 2026-01-26

File Number: LTB-L-098312-24

In the matter of: 712, 161 ATHOL ST E
OSHAWA ON L1H1K2

Between: ALMA Oshawa GP Inc. Landlord

And

Noah Malik Former Tenant

ALMA Oshawa GP Inc. (the 'Landlord') applied for an order requiring Noah Malik (the 'Former Tenant') to pay the rent and daily compensation that the Former Tenant owes.

The Landlord also applied for an order requiring the Former Tenant to pay the Landlord's reasonable out-of-pocket costs that are the result of the Former Tenant's conduct or that of another occupant of the rental unit or someone the Former Tenant permitted in the residential complex. This conduct substantially interfered with the Landlord's reasonable enjoyment of the residential complex or another lawful right, privilege or interest.

This application was heard by videoconference on January 19, 2026.

Only the Landlord's representative Sara Murtadha attended the hearing.

As of 10:00a.m., the Former Tenant was not present or represented at the hearing.

Determinations:

1. I am not satisfied that the Landlord served the Former Tenant with the application and notice of hearing in accordance with the *Residential Tenancies Act, 2006* ('the Act') or the LTB's Rules of Procedure ('the Rules').
2. Providing a party with notice that a hearing is taking place is a central component of procedural fairness. It is manifestly unfair to make an order against a party without giving the party an opportunity to participate in the proceeding. Section 7 of the *Statutory Powers Procedure Act* establishes that a condition precedent to the Board's authority to run hearings in the absence of a responding party is that notice of the hearing has been given. While the Landlord's claims are important and substantial, and I am sympathetic to the

difficulties faced by the Landlord in locating the Former Tenant, that does not override the Former Tenant's entitlement to procedural fairness.

3. The Landlord sent the notice of hearing to the Former Tenant both by mail to the rental unit and by email.
4. Serving the notice of hearing at a rental unit that the Former Tenant no longer lives in is not an approved method of service in accordance with section 191(1.0.1) of the Act nor Rule 3.3 of the Rules. However, even if a document is served in a non-approved method, section 191(2) of the Act establishes that it can still be deemed to be validly given if it can be proven that its contents actually came to the attention of the person. I am not satisfied by the Landlord's submission that because its possible that the Former Tenant has mail forwarding that establishes on a balance of probabilities that the document came to the Former Tenant's attention. There is no actual evidence that the Tenant has mail forwarding set up.
5. The Rules establish different service requirements for use of email if tenants are in possession or no longer in possession of a rental unit. Rule 3.3 of the Rules establishes that document may be served on a tenant no longer in possession of a rental unit by email if:
 1. during the tenancy the tenant or former tenant had consented in writing to service by email; **and**
 2. if it can be proven that the contents actually came to the attention of the tenant or former tenant.
6. I am satisfied that the Landlord meets the first requirement for service by email. The Former Tenant consented in the lease agreement to service by email.
7. However, I am not satisfied that the Landlord meets the second requirement. There is insufficient evidence to support that the document actually came to the Former Tenant's attention. The Landlord was only able to provide evidence that the Former Tenant read and responded to emails during the tenancy, not after. The Former Tenant has not responded to any emails sent by the Landlord since vacating the rental unit nor could the Landlord produce a read receipt. Significant time has passed since there is proof of the Tenant using the email. I am not satisfied that because the email did not bounce back that is sufficient to prove that it came to the Tenant's attention.
8. The Landlord's request for an adjournment to get a skip tracer to locate the Tenant was denied. While I did consider the submission that the Landlord's organizational structure means that it takes time for the Landlord to get approval to use a skip tracer, I find that the Landlord has had sufficient time to find a method of contacting the Tenant. The Landlord filed their application over a year ago. The application was also already adjourned previously related to issues with service.
9. The Landlord argued that the Board has applied Rule 3.3 inconsistently and that they therefore had a reasonable expectation that their method of service would be accepted. I am not persuaded by that argument. Rule 3.3 explicitly states that email can only be used as a method of service for a tenant no longer in possession of a rental unit if it can be proven that the contents actually came to the attention of the former tenant. The Board's

endorsement issued on December 16, 2025 also made clear that the Landlord would be expected to prove that the notice came to the attention of the Tenant.

10. In accordance with Rule 5.17 the Landlord's application is dismissed because the Former Tenant was not served with the notice of hearing.

It is ordered that:

1. The Landlord's application is dismissed.

January 26, 2026
Date Issued

Amanda Kovats
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.