



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

Citation: MetCap Living Management Inc. v Kaze, 2026 ONLTB 8779

Date: 2026-01-23

File Number: LTB-L-076181-25-RV

In the matter of: 1314, 2757 KIPLING AVE
ETOBICOKE ON M9V4C4

Between: MetCap Living Management Inc. Landlord

And

Jane Kaze Tenant
Mervina Philip

Review Order

MetCap Living Management Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Jane Kaze and Mervina Philip (the 'Tenant') because:

- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has wilfully or negligently caused damage to the premises.

The Landlord also applied for an order requiring the Tenant to pay the Landlord's reasonable out-of-pocket costs the Landlord has incurred or will incur to repair or replace undue damage to property. The damage was caused wilfully or negligently by the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex.

This application was resolved by order LTB-L-076181-25 issued on December 22, 2025.

On January 22, 2026, the Landlord 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.
2. The review request submits that the Board Member erred in making a finding of fact that there was no evidence submitted by the Landlord to support their allegation of negligent or wilful damage. More specifically, the Board Member failed to consider photographic evidence that substantiates the Landlord's allegations.

3. Interpretation Guideline 8 Review of an Order states that a request to review based on an alleged error of fact must include specific details of the alleged error and explain how a different finding of fact would change the result. The LTB must be satisfied that there appears to be no rational connection between the findings of fact and the evidence in the original hearing.
4. On review of the audio recording for this hearing, although the Landlord relied on photos of the damaged stove, at no material time did the Landlord's witness or representative argue that the condition of the stove supports a finding of fact that the Tenant's negligence in caring for the stove caused the damage.
5. The Landlord's only position at the hearing was that the stove was in the Tenant's possession when the damage occurred, and therefore, the Tenant must have done it. At minute 04:19:26 of the recording, during cross examination of the Tenant, the Landlord's representative stated "...there is no one pointing fingers indicating that there is fault...the stove was used by you...there's no pointing fingers...stove was damaged in her possession...". The photos were submitted to substantiate that the stove was in fact damaged. A damaged item in the care and possession of a person, does not result in immediate liability unless proven otherwise.
6. As stated in paragraph 13 of the order, the Landlord is required to prove on a balance of probabilities that the damage occurred as a result of the wilful or negligent conduct of the Tenant. In this case, the Landlord failed to do so. As a result, dismissing the application in this case, was reasonable.
7. It is unclear why the Landlord's agent and witness failed to make submissions that were readily available to them at the time of the hearing. The opportunity to make full submissions was at the hearing stage not at the review stage of the proceedings. A review is not an appeal or an opportunity to change the way a case was presented.
8. As such, I am not satisfied that there is a serious error in the order or that a serious error occurred in the proceedings.

It is ordered that:

1. The request to review order LTB-L-076181-25 issued on December 22, 2025 is denied. The order is confirmed and remains unchanged.

January 26, 2026
Date Issued

Mayra Sawicki
Member, Landlord and Tenant Board

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