



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

File Number: LTB-L-023184-25-RV

In the matter of: 504, 26 UNDERHILL DR
Toronto ON M3A2J3

Between: Cloisters Don Holdings Inc. c/o Landlord
Quadreal Residential Properties G.P. Inc.

And

Ali Issa Issa Tenants
Oumar Fatime

Review Order

Cloisters Don Holdings Inc. c/o Quadreal Residential Properties G.P. Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Ali Issa Issa and Oumar Fatime (the 'Tenants') because the Tenants have been persistently late in paying the Tenants' rent.

The Landlord also claimed compensation for each day the Tenants remained in the unit after the termination date.

This application was resolved by order LTB-L-023184-25 issued on August 26, 2025 and based on a hearing that took place on July 31, 2025 where only the Landlord attended.

On October 28, 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 29, 2025 interim order LTB-L-023184-25-RV-IN was issued, staying the order issued on August 26, 2025.

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

The Landlord's agent, Shivanshu Sharma, the Landlord's legal representative, Martin Zarnett, the Landlord's witnesses, Monica Haiu and Auston Woo, and both Tenant's attended the hearing.

Determinations:

1. The Tenants allege that they did not receive notice of the July 31, 2025 hearing and therefore were not reasonably able to participate in the hearing. They dispute receiving any notice regarding the proceedings of persistent late payment of rent. They allege that they had no knowledge until after the sheriff executed the eviction order based on persistent late payment of rent on October 22, 2025.
2. For the reasons that follow, I am not satisfied that a serious error occurred in the proceedings or that the Tenants were not reasonably able to participate in the hearing and therefore their review request must be denied.
3. The Tenants were served the Notice of Hearing for July 31, 2025 on at least two separate occasions.
4. Firstly, I accept that the Landlord mailed the Tenants a copy of the hearing notice by regular mail on March 21, 2025 to the rental unit address to both named Tenants. In accordance with subsection 191(3) of the *Residential Tenancies Act, 2006* (the 'Act') a document given by mail is deemed served on the fifth day after mailing. Meaning that the Tenants were served on March 26, 2025 by the Landlord.
5. The Landlord's agent, Auston Woo, testified that they were the ones that mailed the hearing notice to the Tenants in accordance with the Certificate of Service that was filed with the Board. They were forwarded the email copy of the hearing notice on March 20, 2025 and mailed it out the following day at the instruction of their legal representative. I have no reason to doubt their evidence on this point.
6. In addition to the Landlord's service of the hearing notice, the Board also mailed two copies of the hearing notice to the rental unit address addressed to each named Tenant on April 14, 2025, which were deemed served by mail on April 19, 2025. The documents were not returned to the Board as undeliverable.
7. In addition to mailing, the Landlord's legal representative's office emailed a copy of all of their disclosure material to the Tenant on June 30, 2025 and further included a Notice of Hearing for July 31, 2025. At this review hearing, the Tenant confirmed their email address to which the documents were sent, however, they state that they do not always read their email and may not have received it.
8. The Tenants further deny receiving a copy of the order that was mailed to them on August 26, 2025 by the Board, which would be deemed served on August 31, 2025. The order was addressed to each of the Tenants separately. Neither order copy was returned to the Board as undeliverable.
9. It is important to note that the parties were before the Board on an L1 application under file LTB-L-028070-25. The Tenants do not dispute receiving any of the documents regarding that file including the Notice of Hearing that was mailed to each Tenant in the exact same manner on April 17, 2025 and deemed served April 22, 2025.
10. The order for the L1 file was also mailed the same way to each Tenant on July 11, 2025 and deemed served on July 16, 2025.
11. Although the hearings were taking place concurrently and on different dates, the documents were served on the Tenants in the same manner (by regular mail), albeit with

different file numbers associated with the files and different hearing notices outlining different reasons. The L1 being for non-payment of rent and the L2 being for persistent late payment of rent.

12. The Tenants evidence was not with respect to any confusion regarding multiple file numbers, they dispute having any knowledge at all of the persistent late payment of rent matter.
13. Both of the Notices of Termination (N4 Notice for non-payment of rent and N8 Notice for persistent late payment of rent) were both mailed to the Tenants by the Landlord on the exact same date of March 12, 2025. I find it highly unlikely that the Tenant's would receive one notice and not the other as they thoroughly engaged in the non-payment process, including filing a motion to void on July 31, 2025 – the same day as the L2 hearing for persistent late payment of rent and yet claim to have absolutely no knowledge of the N8 Notice or these proceedings.
14. The Tenants evidence at the hearing was that they denied getting a single document from either the Board or the Landlord relating to persistent late payment of rent, either by email or otherwise, but they don't dispute receiving the documents relating to non-payment of rent that were given in the exact same manner by regular mail.
15. Given the above, I do not accept the Tenants evidence on this point. More likely than not they did receive the documents and instead elected not to attend the hearing on July 31st. I say this because throughout the review hearing the Tenants insisted that they paid all of their rent and felt that their tenancy was preserved because of it. This evidence suggests that they were aware of the proceedings for persistent late payment of rent and chose not to attend. Alternatively, they were not diligent in attending the hearing because they thought that their tenancy was saved because they had paid all of their rent.

Analysis

16. In *King-Winton v. Doverhold Investments Ltd.*, 2008 CanLII 60708 ('*King-Winton*'), the Divisional Court held that "being reasonably able to participate in the proceeding must be interpreted broadly, natural justice requires no less". In this case, there was evidence to suggest that the tenant missed her hearing because of her honest but mistaken belief in an incorrect hearing date.
17. More recently, in *Chin Yong Ahn v. 4900 Bathurst Street*, 2014 ONSC 7325 (*CanLII*), the tenant received the notice of hearing, but did not attend. He claimed he mistook the stated June 3, 2014 hearing date for June 4, 2014; but there was no evidence that he attended on June 4. The Divisional Court held that, pursuant to subsection 7(1) of the *Statutory Powers Procedure Act*, R.S.O. 1990, C.S 22, the Board was entitled to proceed in the tenant's absence and that the tenant was reasonably able to participate in the hearing.
18. I am of the view that *King-Winton* does not stand for the proposition that forgetfulness, distraction, lack of attention to detail or disregard for the date of a hearing entitles a party to a new hearing. A party who fails to attend a hearing should not be in a better position than the party who attends, and a party should not benefit from their conduct by delaying the proceedings. (See also TNL-83955-16-RV)

19. What appears to be the case here is a lack of due diligence on the Tenants' part. That is not the same thing as not being reasonably able to participate. (See: *Khani v. Zhang*, 2019 ONSC 1362 (CanLII) (Div. Ct.), and *Q Res IV Operating GP Inc. v. Berezovs'ka*, 2017 ONSC 5541 (CanLII) (Div. Ct.).
20. In the case before me I find that the evidence before the Board suggests the Tenants received the notice of hearing and chose not to attend. There was no evidence to suggest that the Notices of Hearing were returned as undeliverable by mail on either account of the Landlord's service of the hearing notice or that of the Board's service. A lack of diligence is not cause to grant the review.

Was there an abuse of process by the Landlord's to warrant restoration of the tenancy?

21. The Tenants also failed to establish that the Landlord undertook to deliberately interfere with the Tenants ability to participate in the proceedings which would suggest an abuse of the Board's process and entitle the Tenants to have their tenancy fully restored. They led no evidence at all with respect to any allegation that the Landlord abused the process.
22. In *Schram v. Thompson*, 2022 ONSC 6922 at paragraph 27, the Divisional Court states that where a tenant has been evicted pursuant to a Board order, the Board has jurisdiction to restore a tenant to possession of a rental unit if the Board grants a tenant's request for review of the eviction order. Where the unit is vacant, the Board has held, and the Divisional Court has approved, that the Board has the authority to restore possession to a tenant pursuant to section 23(1) of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S22, to prevent an abuse of its processes.
23. In this reasoning, the Divisional Court outlines other cases where there was consideration to restore a tenant back into possession of the rental unit after the eviction order was enforced and where there was found an abuse of process by the Landlord. Including: *TSL-06175-10-RV* (Re), 2010 CanLII 65490 at paras. 1-4 (Ont. LTB); *TSL-67800-15-RV* (Re), 2016 CanLII 39858 at paras. 25-30 (Ont. LTB); *Kwak v. Marinecorp Mgt. Inc.*, [2007] O.J. No. 2692 at paras. 16-17 (Div. Ct.); *Young v. CRC Self-Help*, 2020 ONSC 1874 at para. 39 (Div. Ct.); *Metropolitan Toronto Housing Authority v. Ahmed*, [2001] O.J. No. 1477 at paras 7-10 (Div. Ct.).
24. In the Divisional Court case of *Ottawa-Carleton Association for Persons with Developmental Disabilities/Open Hands v. Séguin*, 2020 ONSC 7405 the Court found that the Board has broad remedial jurisdiction to reinstate a tenant, including by virtue of s. 31(1)(f) of the Act which permits the Board to make "any other order that it considers appropriate". However, I am unable to find that the Landlord has engaged in those activities described under section 29(1) subsections 2 to 6 based on the evidence before me.
25. Rule 3 of the Board's rules permit service of documents on a person or party in addition to those outlined under section 191 of the Act. Rule 3.1(e) allows for service by regular mail using the address for service provided by the party in addition to subsection 191(3) of the Act which deems documents served on the fifth day after mailing.

26. Accordingly, the Tenants request to review the order and restore the Tenants back into possession of the rental unit is denied.
27. The Tenants requested that they be given a couple of weeks after the hearing to remove other items from the rental unit and to find alternative housing if their review request were denied. The Tenants have provided consent from the Board to receive a copy of this order by email as part of the review process.
28. The Landlord suggested to give the Tenants three additional days after the order is issued to retrieve their remaining belongings.

It is ordered that:

1. The request to review order LTB-L-023184-25 issued on August 26, 2025 is denied. The order is confirmed and remains unchanged.
2. The interim order issued on October 29, 2025 is cancelled. The stay of order LTB-L-023184-25 is lifted immediately.
3. The Landlord shall make the Tenants belongings available for retrieval up to January 31, 2026.

January 27, 2026
Date Issued

Terri van Huisstede
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.