



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

Citation: Ka Wah Manor v Zahoui, 2026 ONLTB 9399

Date: 2026-01-27

File Number: LTB-L-078175-25-RV

In the matter of: 503, 350 CHURCH ST
WINDSOR ON N9A7C8

Between: Ka Wah Manor Landlord

And

Mohammad Zahoui Tenant

Review Order

Ka Wah Manor (the 'Landlord') applied for an order to terminate the tenancy and evict Mohammad Zahoui (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-078175-25 issued on December 10, 2025.

On January 26, 2026, the Tenant 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:

Request to Extend time to File a Review

1. The request to extend time to file a review is granted.

Request to Review

2. The Tenant submits that procedural errors occurred and they were denied procedural fairness because they did not receive adequate notice of the hearing and because their son was treated as a witness or representative as opposed to a support person or translator. The Tenant also submits that the Board made serious errors in its analysis under section 83 of the *Residential Tenancies Act, 2006* ('the Act') concerning relief from eviction. Finally, the Tenant states that the order did not come to the Tenant's attention until enforcement was imminent.

3. On the basis of the submissions made in the request, I am not satisfied that there is a serious error in the order, that a serious error occurred in the proceedings, or that the Tenant was not reasonably able to participate in the proceeding.

Notice of the Hearing

4. The Tenant submits that they were denied procedural fairness because they only became aware of the hearing that was set to occur on November 25, 2025, the night before. The Tenant's agent raised this issue at the hearing. At approximately 51:00 to 51:40 the Member found that the Board sent the Tenant the notice of hearing on October 27, 2025. That finding is supported by the Board's internal records (DOC-6663094) and was reasonable. The Tenant therefore did have adequate time to prepare for the hearing.
5. Even if the Tenant did receive late notice of the hearing, I am still not satisfied that the Tenant was denied procedural fairness. The review request does not make clear what specifically the Tenant would have done differently with more notice of the hearing. Was there a specific document that the Tenant had inadequate time to produce? Why could it not be produced in the time available? The recording reflects that the Tenant participated in the hearing through his son and that the Tenant's son provided evidence on the relevant issues.
6. At the hearing the only issue the Tenant's agent raised about their late notice of the hearing was that they did not have time to discuss a payment plan with the Landlord. However, the Tenant's agent agreed that he had spoken to the Landlord's representative about paying the arrears prior to the application being filed. The Landlord's representative also indicated that he has spoken to the Tenant twice about the arrears. The Landlord provided evidence that they sent the Tenant a letter about the possibility of a payment plan on November 21, 2025. I note that letter also mentions that there is an upcoming hearing. The Tenant was also given an opportunity at the hearing to provide evidence and make submissions about a payment plan. As such I am not satisfied that any alleged late service resulted in the Tenant being unable to have discussions about the possibility of a payment plan.
7. The Tenant did not seek an adjournment at the hearing or indicate that they needed more time to provide a specific piece of evidence. A review is not an opportunity to change how a case was presented. In *Sutton v. Patterson and Morrow*, 2021 ONSC 1403, the Divisional Court at paragraph 6 affirmed that a party who has a procedural fairness concern are obligated to make their objections known, not wait until the appeal to raise their fairness concerns.

The Role of the Tenant's Son

8. The Tenant attended the hearing with his son. The Tenant submits that his son was only a support person or an interpreter and that his role should not have been evidentiary. The Tenant submits that treating this son's statements as testimony was a procedural error.

9. The recording reflects that the Tenant's son is an occupant of the rental unit and indicated that he wished to speak on behalf of his father. The recording reflects that the only reason that the hearing proceeded in the manner that it did is because the Tenant and his son chose to proceed that way. There is nothing in the recording that supports that if the Tenant had wished to provide their own testimony, with the assistance of their son for translation, that would not have been allowed. The Tenant's son had relevant evidence, and it was not a serious error for the Board to consider that relevant evidence. Other than stating that it was procedurally unfair for the Tenant's son to be treated as a witness, the Tenant does not make clear what specifically was unfair about it. Did the Tenant's son provide inaccurate information etc?
10. The recording reflects that the Tenant attended the hearing and that his son participated on his behalf. Nothing in the recording supports a finding that the Tenant was not reasonably able to participate in the proceeding.
11. Section 183 of the Act directs the Board to adopt the most expeditious method of determining the questions arising in a proceeding that affords to all persons directly affected by the proceeding an adequate opportunity to know the issues and be heard on the matter. In furtherance of that aim Rule 1.6 of the Board's Rules of Procedure outlines a number of powers of the Board. Those powers include questioning witnesses or allowing representatives to give evidence where appropriate. It was consistent with the Act, the Board's Rules, and the goal of being both expeditious and fair to allow the Tenant's son to provide testimony as he requested to do.

Relief From Eviction

12. The Tenant submits that the mandatory analysis required by section 83 of the Act did not occur. The Tenant submits that the Board provided no reasons for why the Tenant's proposed payment plan would prejudice the Landlord.
13. The order reflects that the Board did consider section 83 of the Act and all the relevant circumstances. I find that the order contains sufficient reasons. At paragraph 11 of the order the Board explains their concerns with the Tenant's proposed payment plan. Those concerns include that even with additional sources of income the Tenant has not been making payments, there was no evidence about any change in the Tenant's circumstances that supports they will start making payments, and the length of the plan was unreasonable.
14. The Tenant also submits that the Board made a serious error by not conducting an inquiry into whether modified terms, a shorter repayment period, or conditional relief could address the Landlord's concerns while preserving the tenancy. The order's reasons reflect that the Board had a concern about imposing any payment plan because the Tenant has not been making payments despite some of the occupants of the rental unit having an income that could have supported payments being made. The Board also found the specific plan proposed to be prejudicial because of its length.

15. The Tenant submits that the Board made a serious error by failing to address the availability of repayment mechanisms or third-party arrears assistance programs. The Tenant states that they have health related and functional limitations that directly engage the Board's obligations under section 83.
16. The Board considered the evidence before it. No evidence was led about the Tenant applying for any rent assistance program. It would be an error in the absence of any evidence for the Board to assume that the Tenant has applied for, meets the eligibility requirements, and has been approved for a rent assistance program. No evidence was led about the Tenant's personal health circumstances. A review is not an opportunity to change how a case was presented or an opportunity to provide evidence that could or should have been presented.
17. The decision to deny the requested payment plan was an exercise of the Member's discretion that is entitled to deference. I am not satisfied that the Member unreasonably exercised their discretion.

Receipt of the Order

18. The Tenant submits that the order did not come to their attention until January 19, 2026 and that this deprived the Tenant of a meaningful opportunity to exercise their procedural rights before enforcement commenced. The Tenant is raising an issue with events that took place after the hearing not with the order or hearing procedure. The Tenant does not make clear how receiving the order late establishes that the order itself contains a serious error. I also note that the Board's records reflect that the order was sent to the Tenant on December 10, 2025 (DOC-6962949).

It is ordered that:

1. The request to review order LTB-L-078175-25 issued on December 10, 2025 is denied. The order is confirmed and remains unchanged.

January 27, 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.