



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

Citation: Faisal v Esmati, 2026 ONLTB 9925

Date: 2026-01-28

File Number: LTB-T-075101-24-RV

In the matter of: 1077 LINDSAY DR
OAKVILLE ON L6M3B6

Between: Fariah Faisal Tenant

And

Mahboobullah Esmati Landlord

Review Order

Fariah Faisal (the 'Tenant') applied for an order determining that Mahboobullah Esmati (the 'Landlord') substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenant or by a member of their household.

This application was resolved by order LTB-T-075101-24, issued on December 1, 2025.

On December 18, 2025, the 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 the Landlord was not reasonably able to participate in the proceeding, or that a serious error occurred in the proceeding or that there is a serious error in the order.
2. The hearing recording confirms the parties and their legal representatives attended and participated in the September 10, 2025 Board hearing. The recording also confirms that the parties were aware of the issues to be determined at the hearing, and that the parties were afforded the right to address those issues.
3. The hearing recording is not consistent with the review submission that the presiding Board Member interfered with the Landlord's or the Landlord's legal representative's ability to participate in the proceeding. The Member made rulings during the hearing to focus the parties' attention – and the Landlord's legal representative's in particular – on the relevant issues to be determined. The rulings were consistent with the Board's

powers under subsection 23(2) and section 25.0.1 of the *Statutory Powers Procedure Act*.

4. The Member's ruling that the Tenant's application is not statute barred by subsection 29(2) of the *Residential Tenancies Act, 2006* (the 'Act') is consistent with the Divisional Court's ruling in *Toronto Community Housing Corporation v. Vlahovich*, 2010 ONSC 1686 (Div. Ct.); and the Member did not err by hearing and determining the application.
5. By identifying and summarizing the relevant evidence and submissions that guided the Member's material findings of fact and exercise of discretion pursuant to subsection 31(1)(c) of the Act, the Board order shows that the Member considered appropriate factors to resolve the dispute between the parties. The Member therefore properly exercised her authority under the Act.
6. Based on the above, I find the parties were afforded procedural fairness as described in section 183 of the Act and that no error occurred in the proceeding. There is no merit to the review submission that the Landlord or the Landlord's legal representative was not reasonably able to participate in the proceeding.
7. The order explains how and why the Member found that the Landlord substantially interfered with the Tenant's reasonable enjoyment of the rental unit by interfering with the Tenant's use of a room in the unit. At paragraph 24, the order explains why the Member rejected the Landlord's testimony that the Tenant has a key to unlock and use the room in question. The Landlord did not introduce reliable evidence of an agreement to reduce rent for a reduction in services or facilities, per section 125 of the Act.
8. Although the Landlord disagrees with the Member's finding of fact, above, the Board's review process is not an opportunity to re-argue a matter that has been determined. In the present case, the hearing recording, Board application record and December 1, 2025 Board order show there was sufficient evidence for the Member to find that the Landlord prevented the Tenant from using a room in the rental unit by locking the room and by failing to give the Tenant a key. The Member's finding is therefore rational, and not arbitrary. In the circumstances, the Member's finding of fact is entitled to deference.
9. The December 1, 2025 order also explains why the Member concluded that it was appropriate to order the Landlord to pay the Tenant a five percent abatement of rent for interfering with the Tenant's reasonable enjoyment of the property. Like the Member's finding of fact, the Member's exercise of discretion was rational, and not arbitrary or capricious. Without reliable evidence of a substantial loss or injury, the Member's decision to award a five percent abatement of rent for the Landlord's action falls in a reasonable range of outcomes. The order requiring the Landlord to pay the Tenant the abatement of rent is entitled to deference.
10. No error therefore exists in the December 1, 2025 Board order.
11. Having not shown that an error occurred in the proceeding, or that the Landlord or Landlord's legal representative was not reasonably able to participate in the proceeding,

or that there is an error in the December 1, 2025 order, the Landlord's request to review the order must be denied.

It is ordered that:

1. The request to review order LTB-T-075101-24, issued on December 1, 2025, is denied. The order is confirmed and remains unchanged.

January 28, 2026
Date Issued

Harry Cho
Vice Chair, 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.