



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

File Number: LTB-L-068843-25-RV

In the matter of: 19 BELLEVIEW DRIVE
COTTAM ON N0R1B0

Between: AYOBAMI OLALERE C/O LMR PROPERTY
MGMNT

Landlord

And

JEFF MOUSSEAU

Tenant

Review Order

AYOBAMI OLALERE C/O LMR PROPERTY MGMNT (the 'Landlord') applied for an order to terminate the tenancy and evict JEFF MOUSSEAU (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-068843-25 issued on October 28, 2025 as a result of a hearing that took place on October 21, 2025 where the Tenant was not in attendance

On November 18, 2025, the Tenant requested a review of the order and that the order be stayed until the request to review the order is resolved.

On November 19, 2025 interim order LTB-L-068843-25-RV-IN was issued, staying the order issued on October 28, 2025.

This application was heard by videoconference on December 3, 2025.

The Landlord and the Tenant attended the hearing. Also in attendance was the Landlord's agent, Rachelle Bondy.

Determinations:

1. For the reasons that follow, the request to review is denied and the order remains unchanged.

REQUEST TO REVIEW

2. The Tenant's request to review asserts he was not reasonably able to participate at the hearing on October 21, 2025 because he was in the hospital and was only released on November 11, 2025.

3. At the hearing, the Tenant testified that he was battling cancer and in the ICU on the hearing date. The Tenant submits he filed documentation in support of his hospitalization and seeks an opportunity to provide submissions and his response to the Landlord's application.
4. The Landlord opposes the review request as the photos submitted by the Tenant are not time-stamped; further, the Landlord asserts they saw the Tenant at the rental unit on October 15, 2025 when they served him with the disclosure for the hearing. The Landlord submits the Tenant has a history of owing landlords large amounts and not showing up to the hearing. The Landlord submits the Tenant lives with another adult in the rental unit who could have attended on the Tenant's behalf if the Tenant truly could not attend.

ANALYSIS

5. Pursuant to subsection 209(2) of the Residential Tenancies Act, 2006 the Board is empowered to review an order where a party to a proceeding was "not reasonably able to participate" in the hearing. The question of what the phrase "not reasonably able to participate" means has been before the Divisional Court in a number of appeals from Board orders.
6. What all of the Divisional Court cases have in common is the notion of fairness: a party who does not know about a hearing should have a chance to participate in a new one; a party that knows about the hearing and genuinely wants to participate but does not, should still have an opportunity to be heard.
7. In reviewing the documentation filed by the Tenant, it appears that the Tenant has submitted an undated photograph of him attached to an oxygen mask; a photo of his hospital bracelet that does not provide a date, and photographs of the patient communication board that is generally found in hospital rooms dated October 14 and 16 without a year and once again, undated.
8. The problem with the evidence submitted is that they are insufficient to establish that the Tenant was hospitalized on the day of the hearing – October 21, 2025. To give the Tenant the benefit of the doubt, I permitted him to submit after the hearing, documentation to confirm he was hospitalized on October 21, 2025.
9. As of the date of this order, the Board has not received any post hearing submissions from the Tenant which was due December 5, 2025 – after the Tenant proposed (at the hearing) he'd be able to provide it.
10. Even if I were to accept that the Tenant was hospitalized on the day of the hearing, there is no evidence before me that the Tenant contacted the Board to reschedule the hearing, or send someone on their behalf to seek an adjournment
11. In *Bell v. Peel Living* [2005] O.J. No. 6361, the Divisional Court found that the simple fact of the Tenant being too ill to attend the initial hearing constitutes a serious error in the proceeding and the Tenant is entitled to a hearing de novo. However, at paragraph 7, the Court states:

It is, of course, open to a trier of fact to reject evidence he finds lacks credibility. However, in our view, in circumstances such as this, it is incumbent upon the trier of fact that to provide some indication of the basis for that finding. The reasons need not be lengthy. However, the tenant is entitled to know the reasons her evidence was rejected as untruthful or unreliable. In the absence of any specific findings on credibility, and any specific reasons for rejecting the uncontradicted evidence before the Tribunal, the tenant has no meaningful right of appeal.

12. In this case, the evidence does not establish that the Tenant had a genuine intention to participate in the proceeding but failed to do so due to his hospitalization. The Tenant's evidence about when he was hospitalized was contradictory. The timing of his hospitalization is key as that is the basis for why he missed the hearing (according to the Tenant).
13. Given the above, I am not satisfied that the Tenant has established he was not reasonably able to participate at the October 21, 2025 hearing and the Tenant's request to review must be denied.
14. This order contains all of the reasons for my decision within it. No further reasons shall be issued.

It is ordered that:

1. The request to review order LTB-L-068843-25 issued on October 28, 2025 is denied. The order is confirmed and remains unchanged.
2. The interim order issued on November 19, 2025 is cancelled.
3. The stay of order LTB-L-068843-25 is lifted immediately.

January 29, 2026
Date Issued

Sonia Anwar-Ali
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.