



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

Citation: Brown v McCallum, 2026 ONLTB 10953

Date: 2026-01-30

File Number: LTB-L-077727-25-RV

In the matter of: 57 ROSSFORD CRES
KITCHENER ON N2M2H8

Between: Shawn Brown Landlords
Allison Brown

And

Judie McCallum Tenants
Jennifer McCallum (Kennaway)
Jamie McCallum

Review Order

Shawn Brown and Allison Brown (the 'Landlords') applied for an order to terminate the tenancy and evict Judie McCallum, Jennifer McCallum (Kennaway) and Jamie McCallum (the 'Tenants') because:

- the Landlords in good faith require possession of the rental unit for the purpose of residential occupation for at least one year.

This application was resolved by order LTB-L-077727-25 issued on January 8, 2026.

On January 26, 2026, the Tenants requested a review of the order. On January 28, 2026, the Tenant filed an amended request for review of the order.

A preliminary review of the review request and amendment was completed without a hearing.

Determinations:

1. On the basis of the submissions made in the review request and the amended review request, I am not satisfied that there is a serious error in the order or that a serious error occurred in the proceedings.
2. The review request submits that the Board Member seriously erred by failing to properly apply the legal test pursuant to section 48 of the *Residential Tenancies Act, 2006*, the ("Act"). The review request submits that the Member failed to consider:
 - a) Whether the Landlords' daughter was dependent on the Landlords for housing;

- b) Whether occupation of this specific rental unit was necessary; or
 - c) Whether reasonable alternative housing was available.
3. Section 48 of the Act provides that a landlord may, by notice, terminate a tenancy if the landlord in good faith requires possession of the rental unit for the purpose of residential occupation for a period of at least one year. The section provides a list of individuals for which the notice applies, in this case, the Landlords' child.
 4. In the leading Divisional Court decisions of *Feeny v. Noble*, [1994 CanLII 10538](#) (ON SC) and *Salter v. Beljinac*, [2001 CanLII 40231](#) (ON SCDC). *Feeny* stands for the proposition that the test for good faith is a genuine intention to occupy the premises and not the reasonableness of the Landlord's proposal. *Salter* outlines that while it is relevant to the good of the Landlord's stated intention to determine the likelihood that the intended family member will move into the unit, the trier of facts proper stops short of entering into an analysis of the Landlord's various options.
 5. The legal test is to establish the good faith intentions of the Landlords and not to assess whether the Landlords' daughter depended on them, if she required this specific unit or if there was an alternative unit to move into. Paragraph 24 and 30 of the order clearly identify the legal test and confirm that good faith intentions have been established by the Landlords. As a result, I am not satisfied that the Member erred in failing to properly apply the legal test pursuant to section 48 of the Act.
 6. The review request further submits that the Member erred by failing to properly analyze reprisal, failed to consider material evidence and failed to consider the pattern of the Landlords' conduct as required by subsection 83(3)(c) of the Act.
 7. The Member is not required to make an explicit finding or explicitly address each piece of evidence submitted by the parties in her decision (see *Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62, [2011] 3 S.C.R. 708).
 8. Paragraphs 19 to 23 of the order set out the details of the Tenants' position and paragraphs 27 to 29 clearly identify the details of the evidence that was taken into consideration to make a determination: previous N12 notices, previous rent increases and water contamination issues were considered.
 9. Although the Tenants disagree with the January 8, 2026 order, the order sets out a reasonable basis for the determinations made. As stated in Guideline 8 of the Board's Interpretation Guidelines, the Member's findings of fact are entitled to considerable deference. Reasonable determinations will not be interfered with on review.
 10. The Tenants' disagreement with the Member's determinations is not sufficient grounds for review. There is nothing in the record to support a determination that the hearing Member applied improper principles in assessing the evidence introduced or that there was insufficient evidence before the Board to support its conclusions.

11. Lastly, the review request submits that the Member erred by making inconsistent findings when failing to provide the Tenants with additional time to vacate the unit while making a determination that there was no evidence to support the Landlords' daughter required the unit on an urgent basis.
12. The hearing Member's exercise of discretion was rationally connected to the parties' evidence and submissions, and the exercise was therefore not capricious. Although another Board Member may have exercised their discretion differently, as stated above, the presiding hearing Member's decision is entitled to deference.
13. Accordingly, I am not satisfied that there is a serious error in the order or that a serious error occurred in the proceedings. The Tenants review request must be denied.

It is ordered that:

1. The request to review order LTB-L-077727-25 issued on January 8, 2026 is denied. The order is confirmed and remains unchanged.

January 30, 2026
Date Issued

Mayra Sawicki
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.