



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

Citation: Coutinho v Chapata, 2026 ONLTB 14615

Date: February 12, 2026

File Number: LTB-L-043927-24-RV

In the matter of: 718, 250 Albert Street
Waterloo, ON N2L3T6

Between: Prajakta Coutinho Landlords
Lashley Coutinho

and

Tapiwa Derreck Chapata Former Tenants
Sarah Louise Dyck

REVIEW ORDER

Prajakta Coutinho and Lashley Coutinho (the 'Landlords') applied in a L10 application seeking an order requiring Tapiwa Derreck Chapata and Sarah Louise Dyck (the 'Former Tenants') to pay rent, daily compensation, reasonable out-of-pocket costs from conduct that was a substantial interference, and for reasonable out-of-pocket costs from wilful or undue damage.

The L10 application was heard by videoconference on October 7, 2025 and was resolved by order LTB-L-043927-24 issued on November 20, 2025 (the 'L10 Order'), which awarded rent and undue damages.

On December 21, 2025, the Tenants requested a review and stay of the L10 Order, claiming they were not reasonably able to participate in the proceeding.

Review interim order LTB-L-043927-24-RV-IN was issued on December 23, 2025 which stayed the L10 Order and directed the request to a review hearing.

The review hearing was heard by videoconference on January 20, 2026. The Tenant Tapiwa Derreck Chapata attended on behalf of both Former Tenants. The Landlord Lashley Coutinho attended on behalf of both Landlords, along with their legal representative Werrel D'Souza (paralegal).

Determinations:

1. The Former Tenant Tapiwa Chapata testified that he signed into the hearing around 9am and told the moderator that he had a 12:30pm appointment.

2. The Former Tenant testified that the appointment had been arranged only the night before when the clinic called him around 7pm in the evening to tell him they had an appointment for the next day. Since the Tenant had been waiting to get into this clinic, he took the opportunity to confirm the appointment
3. On the hearing day the Tenant signed in with the moderator and waited in the morning. He decided to leave at noon for his appointment. He believed the matter would not proceed in his absence. He was not able to use his phone at the clinic because there were signs posted which prohibited phone use. His medical appointment finished around 2:30pm or 2:40pm.
4. The Former Tenant advised he walked back from the clinic but lost service on his phone. He "tried to call in 3 times". Eventually he got through to the hearing room around 4pm.
5. The Former Tenant submitted that he had every intention of participating in the L10 hearing but was not reasonably able to because of the medical appointment. He testified the appointment was given with very little notice the night before.
6. I note there were some inconsistencies in the Former Tenant's testimony. In the L10 Order, the hearing member noted that the matter was called forward at 12:29pm. When the Tenant was not there, the member canvassed the moderator, who told him the Tenant had indicated during sign in that he had a medical appointment at 1:30pm. This contradicted the verbal testimony at the review hearing that the medical appointment was at 12:30pm.
7. Thereafter, the hearing member held down the matter until 12:51pm when it proceeded uncontested. The Former Tenant called back in at the end of the hearing day at 4pm, but the member indicated the matter had already been heard.
8. The review interim order states in paragraph 5: *"In particular, the Former Tenants shall serve on the Landlords and file with the LTB documentation that: (1) the Former Tenant Tapiwa Chapata had a medical appointment at 1:30pm on October 7, 2025, (2) when this appointment was either made or communicated to Tapiwa Chapata, and (3) how much advance notice the health care provider required to reschedule the appointment."*
9. The Former Tenant did not serve on the Landlords or file with the LTB any documentation corroborating his medical appointment on October 7, 2025.
10. The Former Tenant did not provide any reasonable explanation why a note from the clinic, a letter from the doctor, or similar type of documentation was not provided to corroborate his medical appointment.
11. Further, the Former Tenant did not provide the requested information about how much advance notice this health care provider required to reschedule the appointment.
12. The Board's power to review a decision may be exercised if a party to a proceeding was not reasonably able to participate in the proceeding. The case law from Divisional Court generally instructs the Board that the meaning of the phrase "not reasonably able to participate" should be interpreted broadly, to ensure natural justice. Where a party shows a genuine intent to participate in a hearing but was prevented from doing so, they should be entitled to a hearing through the review process. A party's genuine intent to participate

must be borne out by the evidence which clearly demonstrates the party's intent to participate in the hearing.

13. In *Kathryn King-Winton v. Doverhold Investments* 2008 CANLII 60708 (ON SCDC), the Divisional Court stated: "Being reasonably able to participate in the proceeding must be interpreted broadly, natural justice requires no less.
14. When I consider the evidence of the Former Tenant, I do not find he showed a genuine intention to participate in the L10 proceeding, nor was he prevented from doing so. His credibility was suspect, because his memory of the appointment time was inconsistent at the review hearing compared to at what he told the moderator for the L10 hearing.
15. The Former Tenant admitted to receiving notice of the L10 hearing before the hearing date, and being able to call in for the sign in process. Despite the notice advising parties to be prepared to attend all day, the Former Tenant chose to hang up and leave for a medical appointment, without asking for an adjournment, to reschedule, or giving any prospective return time to the moderator.
16. He also breached the review interim order by failing to provide the corroborating documentation and information about the rescheduling policy of the clinic he attended.
17. Without any documentation proving the Former Tenant actually attended a medical appointment on the afternoon of the L10 hearing, I had little evidence other than his verbal testimony, that he was not reasonably able to attend the LTB proceeding.
18. On a balance of probabilities, I am not satisfied that the Former Tenant was not reasonably able to participate in the L10 hearing held on October 7, 2025. I find that based on the testimony and evidence, it is more likely than not, that the Former Tenant failed to exercise due diligence with respect to the Landlord's application and the Board's proceedings. He chose to leave the LTB hearing and prioritized another appointment. He did not corroborate with any documentation that another medical appointment even occurred the same day.
19. A lack of due diligence is not grounds to grant a request for review. This has been confirmed by the Courts in *Q Res IV Operating GP Inc. v. Berezovs'ka*, 2017 ONSC 5541 CanLII (Div. Ct.) paragraph 8 which states:

If parties are not diligent in dealing with legal proceedings then they cannot demand that a Tribunal waste its resources by rehearing matters a second time. To allow this would undermine the ability of the administration of justice to deliver timely, cost-effective and final orders.
20. Since the Former Tenants have not proven on a balance of probabilities that they were not reasonably able to participate in the L10 proceedings, the request for review is denied.

It is ordered that:

21. The Former Tenants' request to review the L10 Order LTB-L-043927-24 issued on November 20, 2025 is denied. The order remains confirmed and unchanged.
22. The review interim order LTB-L-043927-24-RV-IN issued on December 23, 2025 is cancelled.
23. The stay of L10 Order LTB-L-043927-24 is lifted immediately.

February 12, 2026
Date Issued

Michelle Tan
Vice Chair, 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.