



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

Citation: Good Shepherd Non-Profit Homes Inc. v Van Bergen, 2026 ONLTB 14744

Date: 2026-02-12

File Number: LTB-L-085478-25-RV

In the matter of: 210, 5528 BUCHANAN AVE
NIAGARA FALLS ON L2G3T8

Between: Good Shepherd Non-Profit Homes Inc. Landlord

And

Catharine Van Bergen Tenant

Review Order

Good Shepherd Non-Profit Homes Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Catharine Van Bergen (the 'Tenant') and for an order to have the Tenant pay compensation for damage they owe because the Tenant failed to meet a condition specified in the order issued by the Board on October 6, 2025 with respect to application LTB-L-090097-24, LTB-L-013463-25, LTB-L-044178-25 ('the conditional order').

The Landlord's application was resolved by order LTB-L-085478-25, issued on October 17, 2025 ('the exparte order'). This order was issued without a hearing being held.

The Tenant filed a motion to set aside order LTB-L-085478-25. The Tenant's motion was resolved by order LTB-L-085478-25-SA issued on January 8, 2026.

On January 29, 2026, the Landlord requested a review of the order.

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

Determinations:

1. The parties agreed in the conditional order that the Tenant shall not permit access to the residential complex to anyone under a no trespass notice. The exparte order terminated the tenancy on the basis that the Tenant breached that condition. The Tenant's motion to set aside the exparte order was granted.
2. The Landlord submits that the Board made serious errors in the motion order. Specifically, the Landlord alleges that the Board made an error in fact in finding that no breach occurred, an error in law in ignoring the parties' terms on consent, the Board should have considered that the trespasser was the same person who previously

committed illegal acts on the property, and that the caselaw relied upon by the Board is distinguishable.

3. On the basis of the submissions made in the request, I am not satisfied that there is a serious error in the order.
4. The motion order does not make any errors of fact. The motion order acknowledges that the Tenant did something contrary to the conditional order, namely invite a person subject to a trespass notice onto the property. However, that the Tenant did something contrary to the conditional order is not the end of the analysis. That the parties agreed to the terms of the consent is also not the end of the analysis. The Board had to also consider whether the conduct of the Tenant gave rise to the same grounds for terminating the tenancy as claimed in the previous application pursuant to section 78(1)2.i of the *Residential Tenancies Act, 2006* ('the Act') and whether in all the circumstances it would not be unfair to set aside the order pursuant to section 78(11)(b) of the Act.
5. The Board's conclusion that the Tenant's guest mere presence at the residential complex did not give rise to the same grounds for terminating the tenancy was reasonable. Reasonable determinations will not be interfered with on review. The Board also made no errors in law in arriving at that conclusion. The Board concluded that the mere presence of the Tenant's guest was neither an illegal act nor did it constitute substantial interference with the Landlord's lawful right, privilege, or interest. In arriving at that conclusion, the Board considered the *Trespass to Property Act* ('TPA'). The TPA was relevant because the case involves the Landlord's authority to issue a trespass notice against the Tenant's guest. The Board's conclusion that the Tenant meets the definition of occupier under the TPA and that therefore every time she invites her guest onto the property no illegal act occurs is a reasonable interpretation of the TPA.
6. The Board's interpretation and application of *Harper v. Sauve*, 2022 ONSC 5754 (Div Ct) was also reasonable. That case states that it is a false premise that the landlord could exclude a guest of the tenant and limit the purposes for which that guest could attend at the invitation of the tenant by use of a trespass notice. I'm not satisfied that the Landlord is correct that the case is distinguishable because it dealt with a unilateral decision by a landlord to exclude a guest whereas in this case the Tenant agreed in the conditional order to exclude the guest. Once the Tenant invited the guest back onto the property, under the TPA she is an occupier who can do so.
7. The Landlord submits that the Board should have considered that the Tenant's guest is the same person who committed illegal acts previously and that failing to do so is contrary to section 202 of the Act. Section 78(1)2.i of the Act makes clear that the conduct must rise to the same grounds for terminating the tenancy as claimed in the previous application. As such that the Tenant's guest has done something before is not sufficient. The new event that occurred must also be a breach of the Act. The Board therefore made no serious errors in failing to consider the previous conduct of the Tenant's guest.

It is ordered that:

1. The request to review order LTB-L-085478-25-SA issued on January 8, 2026 is denied.
The order is confirmed and remains unchanged.

February 12, 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.