



Order under Section 21.1 of the Statutory Powers procedure Act and Section 69 of the Residential Tenancies Act, 2006

Citation: Brukel Construction v Mainville, 2026 ONLTB 8412

Date: February 17, 2026

File Number: LTB-L-071131-25-RV-HR2

In the matter of: 309, 98 Garden Street
Whitby, ON L1N6M5

Between: Brukel Consruction Landlord

and

Christopher Mainville Tenant

REVIEW & DE NOVO L1 HEARING ORDER

Procedural History of Application

Brukel Construction (the 'Landlord') applied in a L1 application seeking an order to terminate the tenancy and evict Christopher Mainville (the 'Tenant') because the Landlord claimed that the Tenant did not pay the rent that he owes.

The L1 application was heard by videoconference on October 29, 2025, which was only attended by the Landlord. The application was resolved by order LTB-L-071131-25 issued on November 4, 2025 (the 'L1 Order'), granting a voidable eviction effective November 15, 2025.

On December 2, 2025 the Tenant requested a stay and review of the L1 Order, claiming he was not reasonably able to participate in the proceeding.

Review interim order LTB-L-071131-25-RV was issued on December 23, 2025, staying the L1 Order and directing the Tenant's request to a review hearing.

The review hearing was conducted by videoconference on January 20, 2026. The Tenant and the Landlord's agent Josh Goselin (property manager) attended the review hearing.

Determinations:

Review Granted – Tenant was not Reasonably Able to Participate

1. The Tenant claimed that he knew about the L1 hearing and on October 29, 2025 he tried to sign into the hearing. He noticed a black screen and waited for about an hour. He

realized he was not going to connect to the hearing so he called the Landlord's office and spoke with Nicole Harrison, who tried to assist him. She re-sent the hearing link to the Tenant with the passcode. When the Tenant tried the link sent by Nicole, it continued to go to a black screen. She then told him to call the LTB. He realized he had missed the hearing and requested the review.

2. Mr. Goselin attended the L1 hearing. He was not aware that the Tenant had been speaking with Nicole Harrison on the day of the hearing. He advised that Nicole is another employee of the office.
3. The Tenant testified that he had the intention to participate at the L1 hearing but could not get through. He reached out to the Landlord's office for help but did not have the issue resolved and did not receive a link that worked.
4. Mr. Goselin requested that the review be denied. The rent arrears are growing and the Landlord has been trying to assist the Tenant throughout the process; however, it is apparent the rental unit is unaffordable and the Tenant is not going to be able to pay off the rent arrears.
5. This aspect of the Tenant's request for review engages subsection 209(1) and (2) of the *Residential Tenancies Act, 2006* (the 'Act'), which states:
 - (1) Except where this Act provides otherwise, and subject to section 21.2 of the *Statutory Powers Procedure Act*, an order of the Board is final and binding.
 - (2) Without limiting the generality of section 21.2 of the *Statutory Powers Procedure Act*, the Board's power to review a decision or order under that section may be exercised if a party to a proceeding was not reasonably able to participate in the proceeding.
6. Accordingly, 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.
7. The case law from Divisional Court generally instructs that the meaning of the phrase "not reasonably able to participate" should be interpreted broadly to ensure natural justice and, where a party shows that they genuinely intended 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 intention to participate must be borne out by evidence which clearly demonstrates the party's intent to participate in the hearing.
8. 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". In *King-Winton* there was evidence to suggest that the tenant missed her hearing because of her honest but mistaken belief in an incorrect hearing date.
9. In *Ennasr v. Ottawa (City)*, 2003 CanLII 19592 (ON SCDC), it was found that justice had been denied in circumstances in which a party was absent from a hearing because he had been misdirected by tribunal staff about the hearing date.

10. In this case, the Tenant called the Landlord's office when he realized the LTB was not answering his attempt to sign into the hearing link. The office staff member who tried to help the Tenant did not notify the agent who actually attended the L1 hearing, that the Tenant was having trouble signing in. The L1 hearing occurred in the Tenant's absence.
11. The Landlord did not deny that the Tenant had communications with Nicole Harrison.
12. I am satisfied that the Tenant showed a genuine intention to participate in the L1 proceeding but was prevented from doing so due to his technical issues with the hearing link.
13. As a result, the Tenant's request to review is granted. The L1 Order issued on November 4, 2025 is cancelled and replaced by this *de novo* (new) L1 order.

De Novo L1 Application

14. A *de novo* L1 hearing was conducted.
15. The Landlord served the Tenant with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). The Tenant did not void the notice by paying the amount of rent arrears owing by the termination date in the N4 Notice or before the date the application was filed.
16. As of the review hearing date, the Tenant was still in possession of the rental unit.
17. The lawful rent is \$2,047.50. It is due on the first (1st) day of each month.
18. Based on the Monthly rent, the daily rent/compensation is \$67.32. This amount is calculated as follows: \$2,047.50 x 12 months, divided by 365 days.
19. The Tenant paid \$5,245.00 since the application was filed (\$1,000.00 on September 1, \$500.00 on October 1, \$400.00 on October 7, \$2,045.00 on October 31, \$800.00 on November 13, and \$500.00 on November 27, 2025).
20. The rent arrears owing as of the review hearing date (up to January 31, 2026) is \$9,535.00.
21. The Landlord incurred costs of \$186.00 for filing the L1 application and is entitled to reimbursement of those costs.
22. The Landlord collected a rent deposit of \$2,000.00 from the Tenant on November 1, 2023 and this deposit is still being held by the Landlord. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.
23. No interest has been paid on the deposit. Interest is owing on the deposit from the date of collection to the termination date in the N4 Notice of Termination.

Relief From Eviction Denied – Standard Voidable Eviction

24. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1)(b) of the Act
25. The Tenant described his circumstances. He admitted the rental unit is too expensive for him and he cannot afford even the monthly rent let alone arrears repayment. He works in the construction industry which has suffered a slowdown. He started this tenancy with his girlfriend who helped with paying rent, but she has since left. The N4 arrears started during his work drought. He tried to bring in a roommate to help pay rent but his roommate is now on employment insurance and is getting his income garnished for child support.
26. The Tenant admitted they need to find housing that is more affordable. He requested 2 months to move out, because it will be a challenge to move out in winter and he has a dog. They have started looking for a new place.
27. The Landlord's agent requested a standard order (11 days) because this matter has proceeded for a long time while the arrears continue to grow, and with no prospect to pay going forward.
28. Considering the time benefit since the review hearing on January 20, 2026, the Tenant has already received nearly a month for this order to be issued. The Tenant advised during the hearing that he and his roommate have already been looking for a cheaper place, and he will do his best to move out as soon as possible. A standard voidable eviction order is fair in the circumstances.

It is ordered that:

29. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.

Pay-and-Stay Option

30. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**

- **\$9,721.00*** if the payment is made on or before January 31, 2026;

OR

- **\$11,768.50**** if the payment is made after January 31, 2026 but by February 28, 2026 (See Schedule 1 section A for how these amounts were calculated).

31. The Tenant may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenant has paid the full amount owing as ordered plus any additional rent that became due after February 28, 2026 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.

Pay-and-Go Option

32. **If the Tenant does not pay the amount required to void this order the Tenant must move out of the rental unit on or before February 28, 2026.**
33. If the Tenant does not void the order, the Tenant shall pay to the Landlord **\$9,727.95*****. This amount includes rent arrears owing up to the date of the review hearing and the cost of filing the application. The rent deposit and interest the Landlord owes on the rent deposit are deducted from the amount owing by the Tenant. (See Schedule 1 section B for how this amount was calculated).
34. The Tenant shall also pay the Landlord compensation of **\$67.32 per day** for the use of the rental unit starting **March 1, 2026** until the date the Tenant actually moves out of the rental unit or gets evicted by Sheriff enforcement.
35. If the Tenant does not pay the Landlord the full amount owing on or before February 28, 2026, the Tenant will start to owe interest. This will be simple interest calculated from March 1, 2026 at 4.00% annually on the balance outstanding.
36. If the unit is not vacated on or before February 28, 2026, then starting March 1, 2026, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
37. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord on or after March 1, 2026.

February 17, 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.

In accordance with section 81 of the Act, the part of this order relating to the eviction expires on September 1, 2026 if the order has not been filed on or before this date with the Court Enforcement Office (Sheriff) that has territorial jurisdiction where the rental unit is located.

Schedule 1
SUMMARY OF CALCULATIONS

A. PAY-AND-STAY OPTION

Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before January 31, 2026:

Rent Arrears Owing To January 31, 2026	\$9,535.00
Application Filing Fee	\$186.00
Total the Tenant must pay to continue the tenancy	\$9,721.00*

Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made after January 31, 2026 but by February 28, 2026:

Rent Arrears Owing To February 28, 2026	\$11,582.50
Application Filing Fee	\$186.00
Total the Tenant must pay to continue the tenancy	\$11,768.50**

B. PAY-AND-GO OPTION

Amount the Tenant must pay if the tenancy is terminated

Rent Arrears Owing As of Review Hearing (up to February 28, 2026)	\$11,582.00
Application Filing Fee	\$186.00
Less the amount of the last month's rent deposit	- \$2,000.00
Less the interest owing on the deposit (from date of collection November 1, 2023 to the termination date in the N4 August 24, 2025)	-\$40.55
Total amount owing to the Landlord	\$9,727.95***
Plus daily compensation owing for each day of occupation starting March 1, 2026	\$67.32 (per day)
**Ongoing daily compensation continues to accumulate until the total amount owing (excluding costs) is \$50,000.00.	