



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

Citation: Li v Zhu, 2026 ONLTB 15621

Date: 2026-02-19

File Number: LTB-T-032548-25, LTB-T-036742-25, and LTB-L-057021-25-RV-IN2

In the matter of: Upper Level Apt, 5436 Main St
Stouffville ON L4A 4W8

Between: Muzi Li Tenant

And

Jiayi Zhu Landlord

Review Interim Order

Muzi Li (the 'Tenant') applied for an order determining that Jiayi Zhu (the 'Landlord'):

- entered the rental unit illegally.
- altered the locking system on a door giving entry to the rental unit or residential complex without giving the Tenant replacement keys.
- substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenant or by a member of their household.
- harassed, obstructed, coerced, threatened or interfered with the Tenant.
- withheld or interfered with their vital services or care services and meals in a care home (Applications LTB-T-032548-25 and LTB-T-036742-25)

Applications LTB-T-032548-25 and LTB-T-036742-25 were resolved by order LTB-T-032548-25 and LTB-T-036742-25 issued on November 20, 2025.

Jiayi Zhu (the 'Landlord') applied for an order to evict Muzi Li (the 'Subtenant') because the subtenancy ended and the Subtenant continues to occupy the rental unit (Application LTB-L-057021-25).

Application LTB-L-057021-25 was resolved by order LTB-L-057021-25 issued on September 22, 2025.

On October 22, 2025, and December 4, 2025, the Landlord requested a review of the orders.

The review request of both related orders was heard by videoconference on February 9, 2026.

The Landlord, the Landlord's representative Yan Li, the Tenant, and the Tenant's representative Haiyue Wang attended the hearing.

Determinations:

Review of Order LTB-T-032548-25 and LTB-T-036742-25 Issued on November 20, 2025

1. For the following reasons I find that the order under review contains an error in law in its interpretation and application of section 104(4) of the *Residential Tenancies Act, 2006* ('the Act').
2. The order makes the following findings: The Landlord and someone named Tak Cheong Au had a tenancy. Muzi Li moved into the rental unit thinking Tak Cheong Au was the landlord. Muzi Li paid rent to Tak Cheong Au and never paid any rent to the Landlord. Muzi Li was an unauthorized occupant at the start of her possession of the rental unit. The Landlord became aware that the occupancy of the rental unit had been transferred from Tak Cheong Au to Muzi Li on either March 17, 2025 (the date Muzi Li claimed the Landlord knew) or April 15, 2025 (the date the Landlord claimed they knew).
3. The order under review found that by virtue of section 104(4) of the Act Muzi Li's occupation of the rental unit was a deemed assignment of the tenancy. That section says the following:

104(4) A person's occupation of a rental unit shall be deemed to be an assignment of the rental unit with the consent of the landlord as of the date the unauthorized occupancy began if,

(a) a tenancy agreement is not entered into under subsection (1) or (2) within the period set out in subsection (3);

(b) the landlord does not apply to the Board under section 100 for an order evicting the person within 60 days of the landlord discovering the unauthorized occupancy; and

(c) neither the landlord nor the tenant applies to the Board under section 101 within 60 days after the end of the subtenancy for an order evicting the subtenant. 2006, c. 17, s. 104 (4).

4. The background to all of this is that Tak Cheong Au and the Landlord agreed to terminate the tenancy. Tak Cheong Au and the Landlord signed an N11 agreement to end the Tenancy. The N11 was signed on February 25, 2025. The termination date was April 30, 2025. On May 13, 2025, order LTB-L-037936-25 was issued ('the termination order'). The termination order terminated the tenancy and provided that the order could be filed with the Sheriff for enforcement. The termination order was never reviewed, appealed, or set aside. The termination order was enforced by the Sheriff on July 9, 2025. The order under review finds that was an illegal lock out because it evicted "someone who was the "former tenant", not the current tenant". The order under review grants Muzi Li remedies flowing from what it determines to be an illegal lock out and from other breaches of the Act.
5. When an unauthorized occupant becomes a tenant by virtue of section 104(4) of the Act, the tenancy is transferred to them. I say that for three reasons. First, the use of the word

assignment in section 104(4) supports that the tenancy is being taken from one person and assigned to another.

6. Second, the wording of section 100 of the Act also supports my interpretation. Section 100 of the Act is the section that enables a landlord to end a tenancy before an unauthorized occupant is deemed to have taken over a tenancy. Section 100 says:

if a tenant transfers the occupancy of a rental unit to a person in a manner other than by an assignment authorized under section 95 or a subletting authorized under section 97, the landlord may apply to the Board for an order terminating the tenancy and evicting the tenant and the person to whom occupancy of the rental unit was transferred.

Section 100 uses the word transfer and says that it is the tenant's tenancy that is terminated.

7. Third, because the Board has consistently held that the same terms of the tenancy apply to the person whose occupancy of the rental unit becomes a deemed assignment under section 104(4) as they did to the original tenant. For example, the amount of lawful monthly rent remains the same.
8. Section 100(2) of the Act says that an application under section 100 must be made no later than 60 days after the landlord discovers the unauthorized occupancy. One of the requirements established by section 104(4)(b) of the Act for an unauthorized occupant's occupation of a rental unit to become a deemed assignment is that a landlord does not apply to the Board under section 100 for an order evicting the person within 60 days of the landlord discovering the unauthorized occupancy. Essentially a landlord has 60 days after learning about an unauthorized transfer of a tenancy to apply to the Board to stop the unauthorized occupant from taking over the tenancy.
9. The order under review finds that the Landlord did not file an application under section 100 until July 11, 2025. The order under review says that date is 60 days passed the date that Muzi Li claimed the Landlord discovered the unauthorized occupant (March 17, 2025) or the date the Landlord claimed they knew about it (April 15, 2025). Essentially the order under review finds that the 60-day mark was hit on either May 16, 2025 or June 14, 2025.
10. The serious error that the order under review makes is that it does not consider that a tenancy that is terminated cannot be transferred. The tenancy terminated when Tak Cheong Au and the Landlord signed an agreement to terminate it. The termination order merely confirms the notice. Or alternatively the tenancy terminated when the Board issued the termination order. Both of those events occurred before the order under review determined that the tenancy transferred to Muzi Li. The following is the relevant timeline:
 - On February 25, 2025, the Landlord and Tak Cheong Au signed an N11 agreement to end the tenancy. This is before either date that the parties claim that the Landlord learned about the unauthorized transfer of the tenancy.
 - April 30, 2025, was the termination date in the N11 agreement to end the tenancy.

- On May 13, 2025, the Board issued the termination order based on the N11 agreement.
 - The review order finds that the transfer of the tenancy to Muzi Li occurred on either May 16, 2025 or June 14, 2025 which is 60 days after the differing dates that the parties claimed the Landlord learned about the unauthorized occupancy. However, both those dates are after the tenancy already terminated. What is terminated cannot be transferred.
11. That a terminated tenancy cannot be transferred is supported by the spouse provisions in O. Reg. 516/06: GENERAL ('the Regulation'). Pursuant to section 3(2) of the Regulation a spouse who is not already a tenant is included in the definition of tenant if the rental unit is the principal residence of the spouse and the "tenant vacates a rental unit without giving a notice of termination under the Act and without entering into an agreement to terminate the tenancy". If the tenant ends their tenancy, then there is no longer an existing tenancy to transfer to the spouse. Muzi Li is not the spouse of Tak Cheong Au, but I refer to the provisions about spouses to demonstrate that the Act contemplates that a terminated tenancy cannot be transferred.
12. While the order under review applied section 104(4) of the Act in a literal manner (no application was filed under section 100 within 60 days of the landlord learning about the unauthorized occupant so therefore the unauthorized occupant becomes a tenant), it did so without applying the Act as a whole. It was a serious error in law to find that section 104(4) of the Act could transfer a tenancy that was already terminated.
13. As the order under review contains a serious error, the Landlord's review request is granted. Muzi Li's applications shall be reheard. There are other potential ways that Muzi Li could be a tenant. Tenancy agreements can be written, oral, or implied. The parties should come prepared to the denovo hearing to address the issue of whether Muzi Li is a tenant.
14. The Landlord raised the issue at the review hearing that any tenancy that could potentially exist with Muzi Li is a commercial tenancy not a residential tenancy. It is premature at this time to make a determination on that issue. I want to hear evidence about any potential agreement between the Landlord and Muzi Li regarding the rental unit before I make that determination. As such this issue remains a live issue for the de novo hearing.

Review of Order LTB-L-057021-25 issued on September 22, 2025

15. Application LTB-L-057021-25 was dismissed as abandoned because the Landlord did not attend the hearing. I am not satisfied that the Landlord was not reasonably able to participate in the proceeding and therefore the request to review that order is denied.
16. The Landlord testified that she knew about the hearing but did not attend because she could not get the time off work. The Landlord filed a request to reschedule the hearing that went unaddressed by the Board.
17. While I am mindful that being reasonably able to participate must be interpreted broadly, I am not satisfied that the Landlord had a genuine intention to participate in the hearing process. I say this because the Landlord was aware of the hearing and made the active

choice not to attend. While I sympathize with the decision faced by the Landlord between attending work and the hearing, it is not grounds for review.

18. My finding is consistent with the Board's approach in the following cases in which choosing to attend work rather than attending a hearing was found not to be grounds for review: *TEL-82989-17-RV (Re)*, 2017 CanLII 84863 (ON LTB), *TSL-75156-16-RV (Re)*, 2017 CanLII 28808 (ON LTB), and *TNL-56542-14-RV (Re)*, 2014 CanLII 57970 (ON LTB). I note that in *TEL-87603-18-RV-IN2 (Re)*, 2018 CanLII 111773 (ON LTB) the Board found that a tenant who left a hearing because her workplace needed her to cover for an unexpectedly ill employee was not reasonably able to participate in the hearing. However, that case is distinguishable from the case before me because it involved an unexpected illness.
19. The Divisional Court has repeatedly affirmed that parties to an application are required to follow the Board's process to reschedule or adjourn a hearing: *Lacroix v. Central-McKinlay International Ltd.*, 2022 ONSC 2807 (Div. Ct.) (CanLII); *Wang v. Oloo*, 2023 ONSC 1028 (Div. Ct.) (CanLII). The request to reschedule filled out by the Landlord explicitly says that parties must contact the Board to find out if their request to reschedule was granted and that the hearing will proceed on the original date if the request is not granted. In this case the Landlord did not follow the Board's processes. The Landlord assumed their request would be granted and then did not attend the hearing without receiving confirmation that they were correct. The Landlord also did not exercise diligence. The Divisional Court in *Q Res IV Operating GP Inc. v. Berezovs'ka*, 2017 ONSC 5541 (CanLII) established that lack of diligence in dealing with court proceedings is a reason for refusing to set aside an order where a party has failed to appear.

It is ordered that:

Order LTB-L-057021-25

1. The request to review order LTB-L-057021-25 issued on September 22, 2025, is denied. The order is confirmed and remains unchanged.

Order LTB-T-032548-25 and LTB-T-036742-25

2. The request to review order LTB-T-032548-25 and LTB-T-036742-25 issued on November 20, 2025, is granted.
3. Order LTB-T-032548-25 and LTB-T-036742-25 issued on November 20, 2025, is canceled.
4. Applications LTB-T-032548-25 and LTB-T-036742-25 shall be heard de novo. The parties should come prepared to address whether the applicant is a tenant.
5. I am seized.

February 19, 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.