



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

Citation: Morris v Mingorance Villalba, 2026 ONLTB 14474

Date: 2026-03-02

File Number: LTB-T-014152-25-RV

In the matter of: 1, 2322 Redfern Road
Burlington ON L7R1X3

Between:	Michelle Morris	Tenant
	and	
	Joaquin Mingorance Villalba	Landlord

Review Order

Michelle Morris (the 'Tenant') applied for an order determining that Joaquin Mingorance Villalba (the 'Landlord') gave a notice of termination in bad faith.

This application was resolved by order LTB-T-014152-25 issued on September 22, 2025.

On October 22, 2025, the Legal Representative requested a review of the order and that the order be stayed until the request to review the order is resolved.

On December 15, 2025 interim order LTB-T-014152-25-RV-IN was issued, staying the order issued on September 22, 2025.

The review request was heard by videoconference on January 19, 2026.

The Landlord's Legal Representative, Kimberley Teel, the Landlord and the Tenant attended the hearing.

Determinations:

1. The Landlord's review request alleges that there is a serious error in the order. The Landlord alleges the following:
 - a) The Member seriously erred by allowing the Tenant to submit late evidence during the hearing but not permitting the Landlord to do the same,
 - b) The Member seriously erred by giving unequal treatment to the parties' hearsay evidence; and

- c) Considering and relying on unreliable photographs submitted by the Tenant.

Late Evidence

2. In the request, the Landlord submits that the hearing Member allowed the Tenant an opportunity during the hearing to submit additional evidence, but the Landlord was not permitted to do the same. The Landlord's Legal Representative did not provide any oral submissions on this issue at the review hearing or otherwise point me to where in the hearing the Tenant was permitted to submit late evidence. Likewise, the Landlord did not direct me to where in the hearing recording the Landlord requested to submit additional evidence and was not permitted to do so. Therefore, I am not satisfied that the hearing Member seriously erred in the admission of evidence.
3. Additionally, with respect to the Landlord's submission on additional evidence not permitted by the hearing Member, Interpretation Guideline 8 - Review of an Order states:

Parties are expected to make every effort to produce all relevant evidence in support of their positions in the original hearing. The review will be dismissed unless the LTB is satisfied the new evidence could not have been produced at the original hearing, is material to the issues in dispute and its consideration could change the result. *First Homes Society v Henry*, [2002] O.J. No. 1754, (Div Ct.); NOL-16865-14- RV(Re), 2014 CanLII 78539 (ON LTB).

4. The Landlord has not provided any details as to what the new documentary evidence is that they sought to present, nor have they established that this evidence could not have been produced at the original hearing. As a result, it is not clear that the evidence the Landlord alleges was not permitted by the hearing Member would even be relevant to the proceedings.

Unequal Treatment of Hearsay Evidence

5. The Landlord's Legal Representative submits that the hearing Member seriously erred by considering hearsay evidence submitted by the Tenant but refusing to admit or give weight to the Landlord's hearsay evidence. While I agree with the Landlord's Legal Representative that the Member does acknowledge the Tenant's testimony regarding what the basement tenants told her, the Member does not consider or rely on this evidence in her determinations. Paragraphs 20, 22 and 27 of the final order demonstrate that the Member considered the Tenant's direct oral testimony and photographs of the unit in determining that the unit was in a good state of repair when she vacated and that nobody had moved into the rental unit after she vacated.
6. Even if the Member did consider the Tenant's hearsay evidence about statements made by the basement tenants, it is not a serious error as the outcome would be the same. The hearing Member determined that the Tenant's direct evidence alone was sufficient to prove that the N12 Notice was served in bad faith and that the Landlords' sons did not move into the rental unit within a reasonable amount of time after the Tenant vacated.
7. The Landlord's Legal Representative also submitted that it was a serious error for the hearing Member to draw an adverse inference because the Landlord's sons were not present at the hearing to testify. While there is a problematic adverse inference, it is not central to the outcome. As stated in paragraph 6 above, the Member's decision was based

on sufficient and credible evidence provided by the Tenant. The entirety of the Landlord's evidence in support of their defence to the application was hearsay, and the Landlord did not submit any direct evidence to discredit or otherwise refute the evidence provided by the Tenant. Therefore, it is not a serious error because the hearing Member's conclusion with this respect to the adverse inference does not change the outcome.

8. While the Landlord's Legal Representative also submits that the Landlord did not know that he should call his sons as a witness, a review is not an opportunity to change the way a case is presented or an opportunity of presenting a better or different case than they did at first instance¹. Any party that has such a lack of familiarity with hearing or Board processes should obtain legal advice or representation. The Landlord's lack of familiarity or knowledge is not a Board error.
9. Although the Landlord's Legal Representative states the witness was not available due to his schedule, I am not persuaded that this was the reason the Landlord provided only hearsay testimony at the initial hearing. I say this because the Landlord has repeatedly relied on their statement that they did not know his oral testimony would be required. In my view, it is more likely that the Landlord did not take reasonable steps to facilitate his son's attendance. Additionally, it is not sufficiently clear that the Landlord established at the initial hearing that his son could not have called into the hearing to testify and the hearing Member's conclusion that the hearsay testimony was not necessary was reasonable.

Assessment of Evidence

10. The review request also seeks to challenge the Member's determinations on the basis that the documentary evidence submitted by the Tenant was unreliable and inconclusive. The Landlord's Legal Representative did not make submissions with respect to this issue at the hearing and the request does not provide any details as to why the Landlord believes the photographs submitted by the Tenant were insufficient.
11. The Landlord's disagreement with the Member's determinations is not sufficient grounds for review. There is no indication that the hearing Member applied improper principles in assessing the evidence introduced in this case or that there was insufficient evidence before the Board to support the hearing Member's conclusions.
12. For the foregoing reasons, I am not satisfied that there is a serious error in the order or that a serious error occurred in the proceedings. Consequently, the Landlord's request to review the order must be denied.

It is ordered that:

1. The request to review order LTB-T-014152-25 issued on September 22, 2025 is denied. The order is confirmed and remains unchanged.
2. The interim order issued on December 15, 2025 is cancelled. The stay of order LTB-T-014152-25 is lifted immediately.

¹ [TSL-51694-14-IN-RV \(Re\)](#), 2015 CanLII 23959 (ON LTB) at para 10

March 2, 2026
Date Issued

Candace Aboussafy
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.