



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

Citation: Birks v Cornakovic, 2026 ONLTB 18044

Date: 2026-02-26

File Number: LTB-L-092890-25-RV

In the matter of: Unit - 1, 2679 BLOOR ST W
ETOBICOKE ON M8X1A4

Between:	Glen Birks	Landlord
	And	
	Peter Cornakovic	Tenant

Review Order

Glen Birks (the 'Landlord') applied for an order to terminate the tenancy and evict Peter Cornakovic (the 'Tenant') because the Landlord in good faith requires possession of the rental unit for the purpose of residential occupation for at least one year.

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was resolved by order LTB-L-092890-25 issued on February 6, 2026.

On February 24, 2026, the Landlord requested a review of the order.

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

Determinations:

1. The Landlord's application was dismissed because the Board was not satisfied that the Landlord in good faith requires possession of the rental unit for their residential occupation. The Board found that it was unbelievable that the landlord who said they were experiencing financial difficulties would choose to occupy a tenanted unit that is earning income over a vacant available unit. The Board also had concerns about the timing of the service of the N12 notice of termination ('N12'). The N12 was served shortly after a dispute between the parties about the Landlord wanting to convert the Tenant's unit into multiple units and the amount of rent charged for the rental unit. The Board found that the Landlord served the N12 because they want to undertake that conversion not because they intend to move into the rental unit.
2. The Landlord submits that the Board made a serious error by finding that there was an available unit at the rental complex for the Landlord to move into. The Landlord submits

that was an illogical conclusion because the Landlord testified (as noted at paragraph 21 of the order) that they could not complete the renovations due to financial constraints. I note that testimony of the Landlord was not the only testimony before the Board. Paragraph 25 of the order reflects that the Tenant testified that the other unit was almost completed and painted. It was available for the Board to accept the evidence of the Tenant, and it was not unreasonable to do so. Additionally at paragraph 24 of the order the Board states that the Landlord confirmed during cross examination that they have the ability to occupy the other unit.

3. Even if the Board did make an error in determining that the Landlord had another unit they could move into, it would not change the outcome of the order. I say that because the availability of the other unit was not the only reason that the Board doubted the good faith nature of the Landlord's intent. The Board also found that the notice was served shortly after a conflict between the parties about reducing the size of the rental unit to create two units and that the notice was served for that reason, not because of a genuine intention to occupy the rental unit.
4. The Landlord submits that the Board misapplied the Divisional Court decision in *Fava v. Harrison*, 2014 ONSC 3352. In that case the Court affirmed that the motives of the landlord in seeking possession of the rental unit are largely irrelevant and that the only issue is whether the landlord has a genuine intent to reside in the property. However, the Court also stated the LTB can consider the conduct and the motives of the landlord in order to draw inferences as to whether the landlord desires, in good faith, to occupy the property. The order read as a whole reflects that the Board correctly applied that case. The Board considered the relevant evidence before it and determined that the Landlord does not genuinely intend to occupy the rental unit. The application was not dismissed because the Board found the Landlord's motives unreasonable.
5. The Landlord also submits that the Board made a serious error by not considering the Landlord's testimony that they wanted the rental unit, as opposed to the other unit in the complex, because the rental unit has a rear egress door. The Landlord has not provided a transcript or timestamp of the hearing recording to demonstrate that they provided this testimony. However, even if they did, I'm not satisfied that failing to explicitly consider it constitutes a serious error.
6. Administrative tribunals do not have to consider and comment upon every issue raised by the parties in their reasons (*Construction Labour Relations v. Driver Iron Inc.*, 2012 SCC 65, [2012] 3 S.C.R. 405, at para. 3). The order need only provide sufficient reasons. I find that it did. The order considers some of the reasons that the Landlord said they wanted to occupy the rental unit as opposed to the other unit. I'm not satisfied that also considering that the rental unit has a rear egress door would have changed the outcome of the order. Considering the additional factor about the egress door also would not have addressed the Board's concern that the notice was retaliatory for the dispute about converting the rental unit into two units and about the rent charged.
7. The Landlord's review request is largely an attempt to reargue an application that has been finally determined. That is not the purpose of a review request. The order's findings

are rationally connected to the evidence led at the hearing, the Board did not apply any improper principles in assessing the evidence, the Board did not misapply leading case law, and there are sufficient reasons explaining the result. As such, the Landlord has not established that the order contains a serious error.

It is ordered that:

1. The request to review order LTB-L-092890-25 issued on February 6, 2026 is denied. The order is confirmed and remains unchanged.

February 26, 2026
Date Issued

Amanda Kovats
Member, Landlord and Tenant Board

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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.