



**Order under Section 88.2 / 89
Residential Tenancies Act, 2006**

File Number: LTB-L-033192-24

In the matter of: 106 RAYLAWN CRES
GEORGETOWN ON L7G4N1

Between: Scott Porter Landlord

And

Lloyd Dean Former Tenant
Patricia Dean

Scott Porter (the 'Landlord') applied for an order requiring Lloyd Dean and Patricia Dean (the 'Former Tenant') to pay the Landlord's reasonable out-of-pocket costs that are the result of the Former Tenant's failure to pay utility costs they were required to pay under the terms of the tenancy agreement.

Scott Porter (the 'Landlord') applied for an order requiring Lloyd Dean and Patricia Dean (the 'Former Tenant') to pay the Landlord's reasonable out-of-pocket costs that the Landlord incurred or will incur to repair or replace undue damage to property. The damage was caused wilfully or negligently by the Former Tenant, another occupant of the rental unit or someone the Former Tenant permitted in the residential complex.

This application was heard by videoconference on February 25, 2026.

The Landlord's legal representative Colin James Mitchell and the Landlord attended the hearing.

As of 9:28am, the Former Tenant was not present or represented at the hearing.

Determinations:

1. I am not satisfied that the Landlord served both Former Tenants with the application and Notice of Hearing using a method permitted in subsection 191(1.0.1) of the *Residential Tenancies Act, 2006* (the 'Act') and Rule 3.3 of the LTB's Rules of Procedure.
2. This hearing was previously adjourned on March 17, 2025 and an interim order was issued on March 24, 2025.
3. At paragraph 2 of the order the member notes:

The Landlord's Legal Representative stated that they were recently able to locate the Former Tenant, Lloyd Dean, and are therefore seeking to serve them with the required documents for both parties to be present before Board.

4. The order also notes the parties had been before the Board for two other applications on March 25, 2023 and the Former Tenant had used the email ldean2258@yahoo.ca for communication for those hearings.
5. The Landlord's legal representative stated there may be a potential service issue and provided submissions for my consideration to adjourn to allow the Landlord to affect service of the documents. The Landlord's legal representative stated he served the Former Tenant the notice of hearing and the application at the email above in October 2025, January 2026 and again one week prior to the hearing along with the evidence.
6. The Landlord's legal representative stated he did not receive a reply from the Former Tenant or a bounce back error email suggesting there was issue with delivery and holds the position the Former Tenant has been properly served.
7. The Landlord testified he last communicated with the Former Tenant at the email above sometime in August 2022.
8. The Landlord's legal representative stated he misread the member's interim order notes from the prior hearing and mistakenly took the order as providing authorization for the Landlord to serve the Former Tenant the documents by email for the next hearing.
9. The Landlord's legal representative requested an adjournment to allow time to find the Former Tenant and properly serve the documents. The Landlord's legal representative stated he uses the services of a private investigator he would enlist to find the Former Tenant if granted the adjournment request.
10. Providing a party with notice that a hearing is taking place is a central component of procedural fairness. It is unfair to make an order against a party without giving the party an opportunity to participate in the proceeding. Section 7 of the *Statutory Powers Procedure Act* establishes that a condition precedent to the Board's authority to run hearings in the absence of a responding party is that notice of the hearing has been given.
11. I am not satisfied that the Former Tenant has been served in accordance with the Board Rules. I disagree with the Landlord's legal representative's position that no bounce back or undelivered error indicates the Former Tenant received the email.
12. Even if I accept the Landlord had reasonable expectation to use the Former Tenant's four-year-old email, the Landlord has not met the second requirement to serve by email.
13. The Rules establish different service requirements for use of email if tenants are in possession or no longer in possession of a rental unit. Rule 3.3 of the Rules establishes that document may be served on a tenant no longer in possession of a rental unit by email if:

1. during the tenancy the tenant or former tenant had consented in writing to service by email; **and**
 2. if it can be proven that the contents actually came to the attention of the tenant or former tenant
14. In my view the Landlord's legal representative's submission that no bounce back message or lack of an "undelivered" message indicates the Former Tenant has received the documents does not meet the requirement for proof the contents came to the attention of the Former Tenant.
15. The Landlord's legal representative stated that he was requesting an adjournment in order to enlist the services of a private investigator to locate the Former Tenant.
16. I find the Landlord's legal representative's submission contradictory to the submission he made at the last hearing informing the member that "...they were recently able to locate the Former Tenant."
17. The Landlord's request for an adjournment was denied. The Landlord filed the application on April 24, 2025 and in my view the Landlord has had sufficient time to find a method of contacting the Former Tenant if in fact the Landlord was aware of his location. I also note the application was previously adjourned due to issues related to service.
18. Although I have considered that dismissing the Landlord's application will result in the Landlord being statute-barred from filing a new application, I am not persuaded that given the totality of all the submissions a second adjournment to attempt to locate the Former Tenant, would meaningfully improve the likelihood of finding the Former Tenant.
19. In accordance with Rule 5.17 the Landlord's application is dismissed because the Former Tenant was not served with the notice of hearing.
20. This order contains all reasons for the determinations and order made. No further reasons will be issued

It is ordered that:

1. As Landlord's application is dismissed.

March 2, 2026
Date Issued

Greg Brocanier
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.