



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

Citation: Diaz v Berry, 2026 ONLTB 18693

Date: 2026-03-02

File Number: LTB-L-085902-25-RV

In the matter of: 2, 19 ENOLA AVE
HAMILTON ON L8W2A8

Between: Charita Diaz Landlord

And

Delamar Berry Tenant

Review Order

Charita Diaz (the 'Landlord') applied for an order to terminate the tenancy and evict Delamar Berry (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-085902-25 issued on January 12, 2026.

On January 22, 2026, the Tenant requested a review of the order and that the order be stayed until the request to review the order is resolved.

On January 23, 2026, interim order LTB-L-085902-25-RV-IN was issued, staying the order issued on January 12, 2026.

This review request was heard by videoconference on February 17, 2026.

The Landlord's husband, E. Kotorobai, the Landlord's legal representative, J. Lambe, and the Tenant attended the hearing.

Determinations:

1. The Tenant did not attend the merits hearing held on January 5, 2026, and a standard termination order was issued for arrears over \$7,600.00 to the end of January.
2. The Tenant said he received the notice of hearing from the Landlord's legal representative, he tried to click on the link contained in a pdf document, but it did not connect him to the hearing. He said that he immediately sent an email to the Board about his inability to attend the hearing.
3. The Landlord's agent, E. Kotorobai (EK) said that he never received any communication from the Tenant about the arrears, nor about an inability to connect to the hearing, nor has

the Tenant made any payment since he filed the review in January 2026.

4. The Tenant does not dispute the amount of arrears owed. He said that he does not have a job, despite looking for work. He said that he has tried applying for jobs in construction, truck driving and general labour, but he has not secured a job yet. He also said that he needs more time to move because he has nowhere to move.
5. The Tenant said that he has not reached out to the Landlord in recent months because they merely told him to move out, and they were not prepared to negotiate with him.
6. On the basis of the submissions made in the request, I am not satisfied that there is a serious error in the order or that a serious error occurred in the proceedings, or that the Tenant was not reasonably able to participate in the proceeding for the following reasons. There is no dispute that the Tenant received the notice of hearing. In it there are multiple ways provided to attend a hearing, including zoom link and multiple telephone numbers. There is also evidence that the Board sent a notice of hearing to the Tenant's correct email address on October 10, 2025, almost three months prior to the hearing. The Tenant had ample opportunity to ensure that he had the correct, working, means to connect to the hearing. He said that he immediately sent an email to the Board after failing to connect to the hearing, but there is no evidence of such an email in the Board's records or on the file.
7. In any case, even were the matter to be heard *de novo* the outcome would not be different. The Tenant owed over \$7,600.00 to the end of January 2026, and he has not paid the rent for February 2026. He said that he does not have any income at present, and no immediate job prospect. He does not have sufficient income to pay the rent going forward, and he definitely has no income to pay the arrears. Consequently, the tenancy is no longer viable, and it is prejudicial to the Landlord for it to continue as the arrears are substantial, and they continue to rise each month.
8. However, the Tenant has nowhere else to move at present, and he has no income or job, despite having attempted to find one. Therefore, I find that it is not unfair to provide him a few weeks of extra time to find somewhere else to go before lifting the stay on the eviction order.

It is ordered that:

1. The request to review order LTB-L-085902-25 issued on January 12, 2026, is denied. The order is confirmed and remains unchanged.
2. The interim order LTB-L-085902-25-RV-IN issued on January 23, 2026, is cancelled. The stay of order LTB-L-085902-25 is lifted on March 31, 2026.

March 2, 2026
Date Issued

Nancy Morris
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.