



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

Citation: St Pierre-Grills v Intrilectual Investments Inc. c/o Pocrnic Realty Advisors Inc., 2026 ONLTB 19511

Date: 2026-03-03

File Number: LTB-T-042932-25-RV

In the matter of: PH1, 36 HESS ST S
HAMILTON ON L8P3N1

Between: Chloe St Pierre-Grills

MAR 03, 2026

Tenant

And

Intrilectual Investments Inc. c/o Pocrnic
Realty Advisors Inc.

Landlord

Review Order

Chloe St Pierre-Grills (the 'Tenant') applied for an order determining that Intrilectual Investments Inc. c/o Pocrnic Realty Advisors Inc. (the 'Landlord') gave a notice of termination in bad faith.

This application was resolved by order LTB-T-042932-25 issued on January 5, 2026.

On February 3, 2026, the Landlord requested a review of the order.

A preliminary review of the review request was completed without a hearing. In determining this request, I listened to the audio recording for this hearing.

Determinations:

1. The order under review found that the Landlord had served a notice of termination to the Tenant in bad faith. The order found that the Landlord is using the rental unit only occasionally.
2. The Landlord submits that the Member applied an incorrect legal test when he found that the unit must be the Landlord's main residence. I am not satisfied that the Member applied the wrong legal test. The courts have consistently found that temporary or part-time use is not sufficient to constitute possession of a rental unit for the purpose of residential occupation as contemplated in ss. 48 and 57 of the *Residential Tenancies Act, 2006* (the 'Act'). In at least one such case, *MacDonald v. Smith*, [1993] O.J. No. 1680 (Ont. Ct. Gen. Div), the court determined the landlord wanted to use the rental unit occasionally, that it would not be her main residence, and that "the definition of

occupancy under the Act, ...is normal residency; that is, use and control of the property for residential purposes as commonly understood as a main residence.”

3. At the hearing the Landlord described his use of the unit as temporary. He testified that he uses the unit when he works late. He did not testify as to how many days a week he uses the unit. Given the Landlord’s testimony, it was reasonable for the Member to determine that the Landlord uses the unit on a part-time basis.
4. The Landlord submits that the Member shifted the onus of proof from the Tenant to the Landlord. I do not agree. The Landlord’s current use of the unit is relevant evidence that goes to the issue of bad faith and inquiring into the Landlord’s current use of the unit did not constitute a shifting of the onus. No tenant will be able to give evidence as to the thoughts and feelings of a landlord who has evicted them for own use; often the only evidence available to a tenant to establish bad faith is evidence of the landlord’s conduct.
5. The Landlord submits that the Member did not consider that the Tenant had moved from a one bedroom to a two bedroom unit. This was explicitly accounted for at paragraph 10 of the order, where the Member noted that the Tenant’s new accommodations are larger and as a result the amount the Tenant claims for a rent differential is reduced.
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.

It is ordered that:

1. The request to review order LTB-T-042932-25 issued on January 5, 2026 is denied. The order is confirmed and remains unchanged.

March 3, 2026

Date Issued

Renée Lang

Vice Chair, Landlord and Tenant Board

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