



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

Citation: Creighton v McKitrick, 2026 ONLTB 20450

Date: 2026-03-09

File Number: LTB-T-054094-25-RV

In the matter of: 202, 1 Spencer Ave
Toronto ON M5A2E5

Between: Lacey Creighton Tenant

And

Robert McKitrick Landlord

Review Order

Lacey Creighton (the 'Tenant') applied for an order determining that Robert McKitrick (the 'Landlord') gave a notice of termination in bad faith.

This application was resolved by order LTB-T-054094-25 issued on January 20, 2026.

On February 19, 2026, the Tenant requested a review of the order.

A preliminary review of the review request was completed without a hearing. In determining this request, I reviewed the materials in the LTB's file as well as the audio recording for this hearing.

Determinations:

1. The Tenant's application was dismissed because they led insufficient evidence to prove it. The Tenant attended the hearing on December 9, 2025, but submits that they were not reasonably able to participate in the hearing due to serious medical incapacity and circumstances beyond their control. The Tenant states that they underwent hip surgery and that medication they were prescribed afterwards resulted in cognitive impairment, withdrawal symptoms, severe chronic pain, and depression. The Tenant also states that the hearing happened on a day that they had an academic exam. The Tenant submits that these factors impacted their ability to prepare and organize documentary evidence. The Tenant also submits that a review should be granted because there is new evidence that is potentially determinative of a central issue in dispute.
2. 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 the Tenant was not reasonably able to participate in the proceeding.

3. In *Lacroix v. Central-McKinlay International Ltd.*, 2022 ONSC 2807, the Divisional Court affirmed, at paragraph 11, that “it is incumbent on a party [who claims they were incapable of participating in the hearing] to raise the issue with the tribunal, or for there to be a basis on which the claim of incapability is grounded objectively in events at the hearing”. Neither can be said to be true in this case.
4. There is nothing in the hearing recording that supports that the Tenant was not reasonably able to participate in the proceeding. The recording reflects that the Tenant actively participated, understood the relevant issues, and provided testimony on those issues. The Tenant provided detailed testimony about the times they visited the unit to see if the Landlord moved in, why they believed the notice of termination was served in bad faith, and the impact on them of the eviction.
5. The Tenant mentioned during the hearing that they had issues compiling and uploading evidence because they were self-represented and due to technical issues but did not connect the issue with evidence preparation to their medical condition. Based on the information before the Member, it was reasonable to conclude that the five months between the filing of the application and the hearing date was sufficient time for the Tenant to prepare.
6. While the Tenant filed a request to reschedule because of their exam, which was denied, the Tenant did not request an adjournment on the hearing date, nor did the Tenant raise that they were having trouble participating because of the effect of a medication they were taking. The Tenant talked about their medical diagnosis regarding the impact of the eviction but did not make clear that it was impacting their ability to participate. The Tenant made a comment near the end of the hearing that the hearing was upsetting but that seemed to be in relation to how the hearing was going not that the Tenant was unable to participate.
7. The Tenant also provides no information in the review request about what they would have done differently at the hearing. The Tenant does not make clear what additional evidence they have to present, what question they did not ask, or what submissions they did not make.
8. The Tenant says they have new evidence but does not explain what that new evidence is. I’m therefore not satisfied that the new evidence is potentially determinative of a central issue in dispute. Without more information about what exactly the new evidence is, I’m also not able to determine whether the evidence could have been gathered in time to be presented at the hearing.
9. In *So v. Canadian Mental Health Association, Toronto Branch*, 2024 ONSC 3371 (Div. Ct.) (CanLII), the Divisional Court affirmed that a person who requests a review of an order must give “sufficient information to support a preliminary finding of an alleged serious error or an explanation why the requestor was not reasonably able to participate in the hearing”, per Rule 26.8 of the Board’s Rules of Procedure. The Tenant’s assertion that they have new evidence without explaining what it is, is insufficient to support a preliminary finding that a review is required.

It is ordered that:

1. The request to review order LTB-T-054094-25 issued on January 20, 2026 is denied.
The order is confirmed and remains unchanged.

March 9, 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.