



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

File Number: LTB-L-055976-25-RV

In the matter of: 115, 16 WEST AVE S
HAMILTON ON L8N2S1

Between: Found Spaces Property Management Inc. Landlord

And

Everton Samuels Tenant

Emily Francis Potential Party

Review Order

Found Spaces Property Management Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Everton Samuels because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-055976-25 issued on September 24, 2025.

On February 5, 2026, the Potential Party requested a review of the order.

On February 6, 2026, interim order LTB-L-055976-25-RV-IN was issued, staying the order issued on September 24, 2025

This application was heard by videoconference on March 5, 2026.

The Landlord's agent Robert Hansen, the Landlord's representative H. Butt, the Tenant Everton Samuels, the Potential Party Emily Francis and the Potential Party's representative M. Menzildzic attended the hearing.

Determinations:

The Review Request

1. The potential party Emily Francis (the "Potential Party" or "Emily F") requested a review of order LTB-L-054146-25 issued on September 24, 2025 stating the Emily F was not reasonably able to participate in the hearing which was conducted on September 18, 2025.
2. By way of background, the Board did not send notice of hearing (NOH) to Emily F, as Emily F was not named on the Landlord's application. The Landlord takes the position that the sole tenant is Everton Samuels ("Everton S") and that Emily F is an occupant, therefore not

entitled to protections afforded to tenants under the *Residential Tenancies Act*, 2006 (the “Act”).

3. In support of their position, the Landlord produced a copy of the lease agreement (“Lease”) dated April 26, 2024 which noted Everton S as the sole tenant and Emily F as a mere occupant.
4. Emily F claims that Everton S was intended to be guarantor only and Everton S has never resided at the rental unit. Emily F purports to be the sole tenant, stating she has the only key for the rental unit, has resided the entire length of the tenancy at the rental unit and paid all rent. Everton S noted that at Emily F’s request, he filed an initial application to act as guarantor only. Everton S acknowledged he signed the Lease as a Tenant but believed it was a mere “formality”. Everton S testified he would get copied on emails from the Landlord to Emily F but never spoke with the Landlord.
5. Section 2(1) of the Act defines a tenant as being “*a person who pays rent in return for the right to occupy a rental unit...*”
6. Section 202(1) of the Act also provides that “*in making findings on an application, the Board shall ascertain the real substance of all transactions and activities relating to a residential complex or a rental unit and the good faith of the participants and in doing so, (a) may disregard the outward form of a transaction or the separate corporate existence of participants; and, (b) may have regard to the pattern of activities relating to the residential complex or the rental unit...*”
7. I find on a balance of probabilities that Emily F is tenant in the rental unit in addition to Everton S. While the Landlord’s agent noted that the Landlord’s records were somewhat unclear/inconclusive as to who paid rent to the Landlord, I found Emily F and Everton S’s testimony convincing that rent was paid by Emily F. Emily F also appeared to maintain control and possession of the rental unit at the relevant times, thus giving her a right to occupy the rental unit.
8. As noted, the Board’s records show that NOH was sent by mail to Everton S only. Consequently, I find that Emily F was not reasonably able to participate in the proceedings. The review request is granted and the Landlord’s application was heard *denovo*.

Restore Possession

9. It is not disputed that the Tenant Emily F was recently evicted by the sheriff pursuant to the Order currently under review. In the event the review request was granted, the Tenant Emily F requested to be placed back into possession of the rental unit. The Landlord has confirmed the rental unit is still vacant.
10. Section 23(1) of the *Statutory Powers Procedure Act*, R.S.O. 1990 (“SPPA”) provides that “*A tribunal may make such orders and give such directions in proceedings before it as it considers proper to prevent abuse of its processes*”.
11. Given the evidence before me, I am ordering that the Tenants be put back into possession and the tenancy be reinstated. As I found the Tenant Emily F was not reasonably able to participate in the proceeding that ultimately led to the Tenant’s eviction from the rental unit,

I find it appropriate to reinstate possession pursuant to section 23(1) of the SPPA. Such an order, in my opinion, is appropriate to prevent an inadvertent abuse of process.

L1 Application

12. A preliminary issue was raised in respect to the validity of the Landlord's Form N4.
13. The Landlord served the N4 notice pursuant to subsection 59(1) of the *Act* which provides that a notice of termination served under this section must provide a termination date that is "*not earlier than, (b) the 14th day after the notice is given...*" This was not done, as the Landlord's form N4 did not name the Tenant Emily F, nor did it come to her attention. Given the lack of notice, the Landlord's form N4 is invalid and in my opinion, not substantially compliant with the *Act*.
14. The Landlord did not wish to pursue an arrears only order. The Landlord's application shall accordingly be dismissed.

It is ordered that:

1. The request to review order LTB-L-055976-25 issued on September 24, 2025 is granted. The order is cancelled and replaced with the following order.
2. The Landlord shall immediately allow the Tenant to recover possession of the rental unit.
3. If the Landlord does not allow the Tenant to recover possession of the unit, the Tenant may file this order with the Court Enforcement Office (Sheriff) so that the order may be enforced.
4. Upon receipt of this order, the Enforcement Office is directed to give possession of the unit to the Tenant.
5. The Part of this order allowing the Tenant to recover possession of the unit expires and cannot be enforced if a) The Tenant does not file this order on or before March 27, 2026 with the Court Enforcement Office (Sheriff) which has territorial jurisdiction where the rental unit is located, or (b) The Tenant files this order with the Court Enforcement Office but the order has not been enforced on or before April 26, 2026.
6. The Landlord's application is dismissed.

March 12, 2026
Date Issued

Peter Nicholson
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.