



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

Citation: HAMILTON EAST KIWANIS NP HOMES INC. v MAHJABIN, 2026 ONLTB 22653

Date: 2026-03-16

File Number: LTB-L-041922-25-RV

In the matter of: 412, 71 SANFORD AVE N
HAMILTON ON L8L8G6

Between: HAMILTON EAST KIWANIS NP HOMES INC. Landlord

And

EVA MAHJABIN Tenants
ANNUSHKA WAHEED

Review Order

HAMILTON EAST KIWANIS NP HOMES INC. (the 'Landlord') applied for an order to terminate the tenancy and evict EVA MAHJABIN and ANNUSHKA WAHEED (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was resolved by order LTB-L-041922-25 issued on September 2, 2025.

On December 19, 2025, the Tenants requested a review of the order and that the order be stayed until the request to review the order is resolved.

On December 19, 2025, interim order LTB-L-041922-25-RV-IN was issued staying the order issued on September 2, 2025.

This review request was heard by videoconference on January 6, 2026.

The Landlord's agent, C.A. Fetter, the Landlord's legal representative, P. Guzina, the Tenant, E. Mahjabin and the Tenants' legal representative, K. Shmuir, attended the hearing.

Determinations:

1. Neither Tenant attended the merits hearing held on August 26, 2025. After that hearing, a standard termination order was issued.
2. The Landlord enforced their eviction order on November 28, 2025, and the locks to the rental unit were changed on that date.
3. The Landlord disclosed documents only a day prior to the hearing, and they requested an adjournment in order to be able to use the documents to support their evidence at the hearing.

4. The Tenant, E. Mahjabin (EM) submits that she would be very prejudiced by an adjournment since she has been locked out of the rental unit and she seeks reinstatement.
5. I found that the matter should proceed without the Landlord's late disclosure of documents, since they were not disclosed in time. and it would be very prejudicial to the Tenant to delay her review hearing any further.
6. The Tenants filed their request for a review alleging that they were not reasonably able to participate in the hearing held on August 26, 2025.
7. EM lives in the rental unit with her daughter, the other Tenant A. Waheed (AW). AW is a university student in Waterloo, and she only stays in the rental unit during the summer.
8. EM said that she did not attend the hearing on August 26, 2025 because she had not received the notice of hearing and she was unaware of the hearing. She also said that she did not receive the order from the Board issued on September 2, 2025. EM said that she only heard about the eviction order on November 28, 2025, when the Sheriff came to her unit to enforce the eviction.
9. EM said that she was very ill during the summer. She said that she has had to take medication for a severe stroke that she suffered six years ago, and it makes her dizzy, and she is frequently in pain. She said that she paid the Landlord \$6,000.00 on the day after she was evicted, and she seeks reinstatement to her unit. She alleges that she was not reasonably able to participate in the hearing held in August 2025, and she was unaware of the eviction hearing or the order.
10. EM also said that she rarely checks the mail, and it was possible that she had not checked her mail, delivered to the lobby, from June to September 2025. She said that her daughter visits and frequently stays with her during the summer, but she, too, does not check the mail. EM said that she does not recall receiving any correspondence or communication from the Landlord during the summer or in September 2025.
11. The Landlord's resident coordinator, C.A. Fetter (CAF) said that she sent a number of emails to the Tenants, particularly on August 18, 2025, when she sent an email with a proposal to discuss a payment plan. She said that she also sent the update sheet and the notice of hearing to the Tenants on that date. She said that she received no response.
12. CAF said that she received an email from EM on September 16, 2025, in which she acknowledged that she missed the hearing, and she queried being charged market rent. CAF said that she responded to the Tenants on September 18, 2025, informing EM how to get her subsidy reinstated, but she never heard back from the Tenants. She said that the Landlord received documents from the Tenants requesting reinstatement of subsidy only after the eviction had been enforced. CAF said that her colleagues also communicated with the Tenants on September 3, 2025, attaching the issued order and further information about how to renew the subsidy.
13. CAF said that EM came to the office after she was evicted, and CAF provided her with options about how to reinstate her tenancy, but EM was unwilling to delay a flight to visit her ill mother. CAF said that the Landlord received some documents from the Tenants on December 1, 2025, which included a payment and some information that was insufficient

to support a renewal of the Tenants' subsidy. She said that the subsidy was revoked in 2024.

14. 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 Tenants were not reasonably able to participate in the proceeding for the following reasons.
15. The evidence proves, on a balance of probabilities, that it is primarily EM who lives in the rental unit, and her daughter only stays in the rental unit occasionally. It is EM's own testimony that she rarely checks the mail delivered by post. Her daughter, too, does not check the mail. The notice of hearing was mailed to the Tenants by the Board on June 18, 2025, and it was not returned undelivered. It is deemed to have been served on the Tenants by June 23, 2025. The Landlord's evidence is that they, too, provided a notice of hearing to the Tenants by email on August 18, 2025, a week before the hearing. The Landlord's employees also followed up with the Tenants the day after the order was issued, and they attached the order. The Tenants took no action for almost a further three months, until the Sheriff came to enforce eviction. The Sheriff always provides notice to Tenants about 10 days to 2 weeks prior to enforcing an eviction, and the Tenants still took no action. In fact, even after the enforcement, EM was unwilling to change her travel plans to take any action about her eviction, and she did not file her request for a review until almost three weeks after the eviction had been enforced. I find that it is not credible that the Tenants failed to receive any of the documents sent by the Board and the Landlord, including the notice of hearing from the Board, the notice of hearing and evidence from the Landlord, as well as the order sent by the Board and sent by the Landlord. None of those documents were ever returned undelivered. Therefore, I find that the Tenants were reasonably able to participate in the hearing held on August 26, 2025, but they failed to exercise due diligence to ensure that they attend to preserve their tenancy. Even after learning about an impending eviction, they took no action.
16. Consequently, the request for a review will be denied.

It is ordered that:

1. The request to review order LTB-L-041922-25 issued on September 2, 2025, is denied. The order is confirmed and remains unchanged.
2. The interim order LTB-L-041922-25-RV-IN issued on December 19, 2025, is cancelled. The stay of order LTB-L-041922-25 issued on September 2, 2025, is lifted immediately.

March 16, 2026
Date Issued

Nancy Morris
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.