



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

Citation: Amara Real Estate Holdings Ltd. v Mallish, 2026 ONLTB 22801

Date: 2026-03-19

File Number: LTB-L-073238-25-RV

In the matter of: 1, 386 DELL ST
SUDBURY ON P3B2M1

Between: Amara Real Estate Holdings Ltd. Landlord

And

Corey Mallish Tenants
Patrick Bureau

Review Order

Amara Real Estate Holdings Ltd. (the 'Landlord') applied for an order to terminate the tenancy and evict Corey Mallish and Patrick Bureau (the 'Tenants') because:

- the Tenants have been persistently late in paying the Tenants' rent.

The Landlord also claimed compensation for each day the Tenants remained in the unit after the termination date.

This application was resolved by order LTB-L-073238-25 issued on December 23, 2025.

On January 20, 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 21, 2026 interim order LTB-L-073238-25-RV-IN was issued, staying the order issued on December 23, 2025.

This request to review was heard by videoconference on February 11, 2026.

The Landlord's agent, Wali Hossain ('WH'), the Landlord's legal representative, Ashley Cassidy ('AC'), and the Tenants attended the hearing.

Determinations:

1. In the request to review the Tenant's claim that they were not reasonably able to participate in the original hearing, which took place on November 6, 2025. The Tenants were not present or represented at the November 6, 2025 hearing.

2. The Tenant, Corey Mallish ('CM'), said that the Tenants were not at the November 6, 2025 hearing because they did not receive the notice of hearing. CM said that the Tenants did not know about the hearing until they received a notice of vacate from the Court Enforcement Office ('Sheriff').
3. According to the LTB's records, the notice of hearing was mailed to each of the Tenants on September 18, 2025. Neither piece of mail was returned by Canada Post. The notice of hearing was also emailed to CM to the email address in the LTB's file on September 16, 2025, but CM said this was an old email address she doesn't use anymore
4. CM said the Tenants did receive a notice of hearing for a different application in December 2025 and attended that hearing. She also said the Tenants have not had any other issues with their mail.
5. The Tenants bear the burden of proof on a balance of probabilities relative to their request to review. To prove something on a balance of probabilities, one must present sufficient clear, convincing, and cogent evidence to establish that it is more likely than not that something happened or a fact is true: *FH v. McDougall*, 2008 SCC 53, paras 44-46.
6. The notices of hearing that were mailed to the Tenants and not returned by Canada Post are deemed to have been delivered on September 23, 2025: r. 3.9(a), *LTB Rules of Procedure*.
7. In this case, the Tenants have not presented sufficient clear, convincing, and cogent evidence to establish that it is more likely than not that the mailed notices of hearing were not received. While it is possible that mail might, for some reason, not be delivered to the intended recipient and also not returned to the sender, this is not common. It is possible, for example, that a piece of mail may be accidentally left in the wrong mailbox, and the person who received it may not return the mail to Canada Post.
8. In this case, however, I find that it is unlikely that both of the notices of hearing that were mailed to the Tenants (one was mailed to each tenant), somehow went missing, and neither was returned to the LTB by Canada Post. I find it even more unlikely that this happened again when the LTB mailed the order to the Tenants.
9. The order was mailed to each Tenant on December 23, 2025, and neither piece of mail was returned by Canada Post. Despite this, CM's evidence was that the Tenants also did not receive the order.
10. I do not find the evidence that all four of these pieces of mail inexplicably disappeared to be credible. As stated above, the notices of hearing are deemed to have been delivered to the Tenants on September 23, 2025.
11. The LTB will refuse to grant a request to review where the requestor's absence was the result of negligence, or if there was no reasonable explanation for the failure to attend. Lack of reasonable diligence in dealing with LTB proceedings is also a reason not to grant a rehearing to avoid a waste of resources: *Ali v. Capreit*, 2025 ONSC 103 (CanLII), para 12; *Gusain v. Arnold*, 2023 ONSC 3765 (CanLII), para 48; *Q Res IV Operating GP Inc. v. Berezovs'ka*, 2017 ONSC 5541 (CanLII), para 8.

12. At the same time, the right to be reasonably able to participate in a proceeding must be interpreted broadly because it is a matter of natural justice: *King-Winton v. Doverhold Investments Ltd.*, 2008 CanLII 60708 (ONSC Div. Ct.); *Ali v. Capreit*, 2025 ONSC 103 (CanLII), para 14.
13. In *Ali v. Capreit*, *supra*, the Court commented on the “generous” interpretation of the right to be reasonably able to participate in a proceeding, articulated in *King-Winton v. Doverhold*, *supra*, and followed in a number of subsequent cases: “Given the inherent vulnerability of residential tenants and the purpose of the [RTA](#) (see s. 1), this generous interpretation makes sense”: *Ali v. Capreit*, 2025 ONSC 103 (CanLII), para 14.
14. In this case, the notice of hearing was delivered to the Tenants on September 23, 2025. There is no reasonable explanation for the Tenants failure to attend. Whether the Tenants failure to attend was a choice, or whether it was because the Tenants were negligent or failed to act with reasonable diligence once the notices of hearing were received, their request to review must be denied.
15. The broad interpretation of the right to be reasonably able to participate in a proceeding is not so broad that a party who fails to attend a hearing without reasonable explanation can demand that a matter be reheard if the outcome is not in their favour.
16. On the basis of the submissions made in the request, I am not satisfied that the Tenants were not reasonably able to participate in the proceeding.
17. CM requested that the lifting of the stay on order LTB-L-073238-25 be delayed for 30 days if the review request is denied. She said that the Tenants have three children and it is difficult to find housing. I find that this request is reasonable, and the lifting of the stay will be delayed for 30 days.

It is ordered that:

1. The request to review order LTB-L-073238-25 issued on December 23, 2025 is denied. The order is confirmed and remains unchanged.
2. The interim order issued on January 21, 2026 is cancelled. The stay of order LTB-L-073238-25 is lifted on April 18, 2026.

March 19, 2026
Date Issued

Mark Melchers
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.