



Order under Section 21.2 of the Statutory Powers Procedure Act and Section 78(11) of the Residential Tenancies Act, 2006

Citation: Killam Apartment REIT v Kordestani, 2026 ONLTB 22978

Date: March 17, 2026

File Number: LTB-L-071154-25-RV-SA2

In the matter of: 210, 3610 DIXIE ROAD
MISSISSAUGA, ON L4Y0H3

Between: Killam Apartment REIT Landlord

and

Mehran Yavarpour Kordestani Tenant

REVIEW ORDER & DE NOVO SET ASIDE ORDER

Procedural History of Application

Killam Apartment REIT (the 'Landlord') applied in a L4 application seeking an order to terminate the tenancy and evict Mehran Yavarpour Kordestani (the 'Tenant') and for an order to have the Tenant pay the rent they owe because the Landlord claimed the Tenant failed to meet a condition specified in the consent order issued by the Board on August 5, 2025 with respect to the review of L1 application LTB-L-016554-25-RV.

The L4 application was resolved by order LTB-L-071154-25 issued on September 3, 2025 (the 'L4 Order') which terminated the tenancy effective September 14, 2025. The L4 Order was issued without a hearing being held.

On September 19, 2025, the Tenant requested an extension, stay, and to set aside the L4 Order. Member Direction issued September 22, 2025 granted the Tenant's request for extension. The set aside motion was directed to a hearing.

The set aside motion was heard by videoconference on October 23, 2025. The motion was resolved by order LTB-L-071154-25-SA issued on November 4, 2025 (the 'Set Aside Order') which denied the motion because it was determined that the Tenant had abandoned the hearing. The stay of the L4 Order was lifted immediately.

On January 14, 2026 the Tenant requested an extension, stay, and review of the Set Aside Order, claiming he was not reasonably able to participate in the set aside hearing.

Review interim order LTB-L-071154-25-SA-RV-IN was issued on January 15, 2026 which stayed the Set Aside Order and directed the request to a review hearing.

The request to review was heard by videoconference on February 2, 2026. The Tenant attended and spoke to tenant duty counsel before the review hearing started. The Landlord's legal representative Geoff Paine (paralegal) also attended the review hearing.

Determinations:

Review Granted – Tenant was not reasonably able to participate

1. The Tenant testified that on October 23, 2025, he attended the set aside motion and was put in a breakout room to speak privately with the Landlord's legal representative. The Tenant thought that after talking in the breakout room that the hearing was over. Since he had to attend work at 4:30pm, he had to leave by 4pm to get to work. He is the only provider for his family.
2. The Tenant testified that he is a newcomer to Canada, English is not his first language, and he works 12 hour shifts (from 4:30pm to 4:30am). Since he did not fully understand the process that the hearing had not yet occurred (after the breakout room), and since he had to work a 12 hour shift starting 4:30pm, he had no way to be able to sign back into the hearing block after he left the breakout room.
3. The Landlord's legal representative advised that a prior colleague paralegal (who was no longer with his firm) attended the set aside motion. When the Tenant disconnected after the breakout room, the prior paralegal called the Tenant 3 times, upon the Member's instructions to try to call the Tenant. The prior colleague waited until a quarter to 5pm. It was submitted that the Tenant's departure from the hearing process was a lack of due diligence, which Divisional Court has indicated is not a reason to grant a review.
4. The Board's power to review a decision may be exercised if a party to a proceeding was not reasonably able to participate in the proceeding. The case law from Divisional Court generally instructs the Board that the meaning of the phrase "not reasonably able to participate" should be interpreted broadly, to ensure natural justice, and where a party shows a genuine intent to participate in a hearing but was prevented from doing so, they should be entitled to a hearing through the review process. A party's genuine intent to participate must be borne out by the evidence which clearly demonstrates the party's intent to participate in the hearing.
5. In *Kathryn King-Winton v. Doverhold Investments* 2008 CANLII 60708 (ON SCDC), the Divisional Court stated: "Being reasonably able to participate in the proceeding must be interpreted broadly, natural justice requires no less."
6. When I considered the actions of the Tenant, including signing into the hearing block and speaking to the representative in the breakout room, I was satisfied that the Tenant intended to be involved in the hearing process. Due to the time (nearing the end of the business day) and his upcoming 12 hour shift, I found the Tenant's explanation reasonable that he disconnected inadvertently from the hearing process around 4pm when he had to leave for work. I accepted that the Tenant had a genuine intention to participate in the proceedings.

7. On a balance of probabilities I found that the Tenant was not reasonably able to participate in the set aside motion hearing. As a result, the request for review was granted, and a *de novo* (new) set aside motion was held.

De Novo (New) Set Aside Motion Denied

There was a breach of the consent review order

8. The Tenant admitted that he missed the monthly rent payment and arrears payment for August, 2025, which were consented to in the previous consent review order. The Tenant testified that he missed these payments because his grandmother passed away in Ukraine in the summer, so he had to send money for his grandmother's funeral.

The surrounding circumstances

9. Based on the Tenant admitting he missed the monthly rent payment for August 1, 2025, and the arrears payment due August 20, 2025, I am satisfied that the Tenant breached the previous consent order. The next issue before me is to determine whether it would be unfair in all of the circumstances, to grant the Tenant's motion to set aside the L4 eviction order. For the following reasons, I find that it would be unfair to grant the motion.
10. The total rent arrears and costs ordered in the consent review order was \$7,425.60, which represented all the arrears and costs up to July 31, 2025. The review hearing was held on July 28, 2025, near the end of the month. The Tenant should have known during the review hearing, that in only 4 days, the normal monthly rent was due on August 1, 2025. The Tenant did not specify during my review hearing, when exactly his grandmother in Ukraine had passed away (other than it was in the summer); however, I expect it would be reasonable for the Tenant to know during the July 28, 2025 hearing that he might have funeral expenses to pay for, plus that monthly rent would be due on August 1, 2025 plus the first arrears payment of \$2,000.00 due by August 20, 2025.
11. The fact that the Tenant breached the first 2 payments in the consent repayment plan, likely at a time when he already knew he would have funeral expenses, reveals to me that the repayment plan entered on consent was likely not affordable or feasible to maintain.
12. When asked about the Tenant's circumstances since the consent review hearing, the Tenant testified that he wants to pay monthly rent going forward, plus \$500.00 more towards the rent arrears. It was unclear whether this \$500.00 that was offered was on top of the previously ordered \$2,000.00 arrears payments by the 20th of each month, or if it was only \$500.00 which could now be offered towards each monthly arrears payment.
13. The Landlord's legal representative submitted, and the Tenant did not dispute, that the rent arrears have grown to \$8,667.56, and that the February 1, 2026 monthly rent had not been paid yet.
14. The Tenant testified that he expects to receive some help in the near future to pay down the rent arrears. For example, he called a housing organization and registered for rent assistance, and they had promised to help. The Tenant advised he is currently in the

process of providing some documents to the Peel Region Community Housing program, and they said they may give some money soon.

15. The Tenant confirmed that his current monthly rent is \$3,136.64, due on the first (1st) day of each month. His monthly income is about \$4,500.00, and his wife is hoping to receive \$1,500.00 per month in benefits (which have not yet started).
16. His wife's income at the time the prior review consent order was entered last summer was \$2,500.00 or \$2,800.00 per month; but his wife lost her job in December 2025. They are waiting for her benefits to start. They had approximately \$300.00 or \$400.00 per month in vehicle expenses, \$280.00 per month for auto insurance, plus expenses for daily living like food and their children's expenses on top of that.
17. The Landlord's legal representative advised that the rent arrears situation had not improved and had in fact had worsened since the original L1 application was brought to the LTB. In the past year the arrears have been growing, and it is apparent this Tenant can no longer afford the rental unit, especially since his wife had lost her job.
18. When I consider the circumstances surrounding the breach of payments from August, 2025, plus the current prospects for the Tenant's family, I agree with the Landlord's representative that his rental unit has become unaffordable for the Tenant and his family. The plans to receive housing assistance and his wife's alleged benefits were speculative at the time of my review hearing. Based on the Tenant's sole income at the moment, and the amount of household expenses the family was obligated to pay, I find it would be unrealistic to set aside the eviction order and to allow the Tenant to enter a new repayment plan.
19. The parties made attempts to resolve the rent arrears situation by making a consent payment plan last summer. That was when the Tenant had dual family income. Even with their dual income, the very first rent payment and first arrears payment were missed from the consent order. Now, with the wife's job loss in December 2025, the Tenant's prospects seem worse. The Tenant's family's overall income has reduced, while the rent arrears owing have grown. There was no evidence presented by the Tenant to support his claims that his wife would be receiving any benefits soon or that any program for rent assistance may be able to help in the near future. Even if the Tenant's wife started receiving benefits soon, they would be less than her prior income.
20. I find that based on the evidence, this tenancy is no longer sustainable. The circumstances do not support any reasonable prospect for the Tenant to pay down the rent arrears, or to keep up with ongoing rent payments. He admitted to missing the rent due for February 1, 2026, although he had plans to pay his rent going forward, plus \$500.00 "more on what's owed". The Tenant's plans do not seem credible or viable in the circumstances.

The stay is lifted immediately

21. The Tenant advised that he would need 5 months to move out because his children finished their school year in June. The Landlord's representative advised that the Tenant has already successfully postponed the eviction through the prior review process, prior set aside motion which was abandoned, and that the rent arrears keep growing.

22. I am mindful that the Tenant has school-aged children and it is currently winter. However, the requested time frame is too long, especially in light of the fact that not even the normal monthly rent is currently being paid, let alone any of the rent arrears. Giving any delay of time for the stay to be lifted from the L4 eviction order would likely prejudice the Landlord by growing the rent arrears even more.
23. The Tenant has already been given the time benefit of over a month between my review hearing to the issuance date of this order. As a result, the stay of the L4 Order will be lifted immediately.

It is ordered that:

24. The request to review the prior Set Aside Order is granted. Order LTB-L-071154-25-SA issued on November 4, 2025 is cancelled.
25. The review interim order LTB-L-071154-25-SA-RV-IN issued on January 15, 2026 is cancelled.
26. The *de novo* motion to set aside the L4 Order LTB-L-071154-25 issued on September 3, 2025, is denied. The L4 Order is confirmed and remains unchanged.
27. The stay of the L4 Order LTB-L-071154-25 is lifted immediately.

March 17, 2026
Date Issued

Michelle Tan
Vice Chair, 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.