



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

File Number: LTB-L-026851-25-RV

In the matter of: 307, 416 THE WESTWAY
ETOBICOKE ON M9R1H7

Between: MARY VIOLANTE Landlord

And

KEMAL DEMRCI Tenant

Review Order

MARY VIOLANTE (the 'Landlord') applied for an order to terminate the tenancy and evict KEMAL DEMRCI (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-026851-25 issued on June 30, 2025 as a result of a hearing that took place on June 19, 2025 where the Tenant was not in attendance.

On October 14, 2025, the Tenant requested a review of the order and that the order be stayed until the request to review the order is resolved.

On October 20, 2025 interim order LTB-L-026851-25-RV-IN was issued, staying the order issued on June 30, 2025.

This application was heard by videoconference on November 13, 2025.

The Landlord's agents, Bryan Zenkovich, Alexander Zenkovich and Mary Violante, and the Tenant attended the hearing. The Tenant was represented by Manpreet Parhar.

Also in attendance were the Tenant's EPIC program caseworker, David Smith, the Tenant's witness and son, Abdul Rahman Baqqal, and the Landlord's witness Nick Zenkovich.

Determinations:

1. For the reasons that follow the request to review is granted and the Landlord's application is dismissed.

REQUEST TO REVIEW

2. The Tenant's request to review alleges that the Tenant was not reasonably able to participate at the hearing on June 19, 2025 because he did not receive the notice of hearing since his mailbox has been compromised which the Landlord has known about;

further, the missed hearing only came to his attention when he received the sheriff's notice from the Landlord's agent, AZ. The Tenant further disputes the receipt of the N4 notice of termination and submits a serious error occurred when the Board granted the application without determining whether the N4 was validly served.

3. The Landlord submits that the company's policy requires his employees to deliver all correspondence personally by putting it under the 102 tenant doors or handing it to them. The Landlord submits out of all the tenants who received a N4 notice of termination, this is the only Tenant who is disputing receipt.
4. In reviewing the certificate of service submitted to the Board by the Landlord, it appears it fails to identify the method of service for the N4 notice of termination. It does not appear this issue was explored or deliberated on, at the hearing on June 19, 2025.
5. Therefore I find the order contains a serious error when it fails to articulate findings about service of the N4 in the face of this deficiency and the request to review is granted.

L1 APPLICATION

A. Preliminary issue: Service of the N4 notice of termination

6. The Tenant disputes receiving the N4 notice of termination.
7. The Landlord's witness, NZ, who is the assistant property manager, and the person who signed the certificate of service in question, testified that he attends all properties owned by the Landlord, follows up with the superintendents on outstanding matters and delivers documents to the rental units.
8. He also testified that while he recalls serving N4 notices of termination to the Tenant, he cannot recall whether he did so in February or March 2025 or how. He also testified that he would have either knocked on the door to serve the Tenant or slide it under the unit door.
9. Although the Landlord submits that this is the only Tenant challenging service of the N4, the Landlord could not present evidence to corroborate the Tenant's awareness of the N4 prior to the L1 application being filed or the hearing.
10. Section 69 of the *Residential Tenancies Act, 2006* states:

69 (1) A landlord may apply to the Board for an order terminating a tenancy and evicting the tenant **if** the landlord has given notice to terminate the tenancy under this Act or the *Tenant Protection Act, 1997*.

11. Based on the evidence before the Board, I am not satisfied that the Landlord gave the Tenant the N4 notice of termination prior to filing the L1 application and therefore, the application must be dismissed.

B. Preliminary Issue: Was Parking Included with the Rent?

12. At the hearing, the Tenant also disputed the charge for parking that was applied to his account from October 2, 2024 onwards. The Tenant submits he moved into the rental unit

in 2019 and was not charged for parking until he asked to swap to a more spacious spot. The Tenant confirms he was never advised of the change in cost nor is parking reflected in his ledger for the period before October 2024, although he did have a parking spot.

13. The Landlord submits that they were unaware of parking being an issue at the hearing but also confirm that the super employed by the Landlord at that time was Husa as the Tenant asserts.
14. The Landlord further submits they are unaware of any waiver of fees for parking and submitted a copy of the Tenant's rental application which although was not signed by the Landlord, but the Landlord confirms it to be the true copy and explains that the dark blue ink is the Tenant's writing; the light blue ink belongs to MV, the Landlord's agent, and the brown ink belongs to the super.
15. In reviewing sections 6, 3, and page 1 of the rental application related to the lawful monthly rent and parking, the following become relevant:

It appears based on the Landlord's submission that these sections were filled out by the Landlord's agents.

16. Keeping section 202 in mind and when reading these sections together, I find that there was discussion of parking – this is reflected on page 1 of the lease where the parking charges for exterior and interior are written as well as section 3 where 1 exterior parking space is selected. I note that section 3 appears to be contradictory in providing 1 spot for 0 outside.

17. The Divisional Court said in *Conroy v Jalaie*, 2010 ONSC 3626, that ambiguities in lease go in favour of party who did not draft document. The court's logic is found at paragraph 19:

[19] It is an established principle in our common law that ambiguities in a contract that affect the substantial rights and obligations of a party will be construed in favour of the party who did not draft the document. This general principle of construing ambiguities in a document against its drafter reflects the notion of comparative responsibility. Because the drafter could have avoided the ambiguous language, of the two parties, the drafter should bear the adverse construction: *Chilton v. Co-operators General Insurance Co.* (1997), 1997 CanLII 765 (ON CA), 32 O.R. (3d) 161 (Ont.C.A.).

So I find one parking space was provided to the Tenant under the lease agreement.

18. With respect to the charge for parking, this becomes interesting because under section 6, the charge is crossed out and on page 1 the final rent that is "ok" by the Landlord's agent is \$1695.00. I take this to mean that the one exterior parking space was included in the rent for \$1,695.00.
19. The Tenant testified that he had a conversation with the superintendent in 2020 about changing his parking spot to a wider spot which was approved, and no conversation was had about additional parking charges nor was he charged until four years later.
20. As the superintendent was not present to testify, I find the only first-hand testimony I have is that of the Tenant's which is supported by the Landlord's ledger when the Tenant is not charged for the period after his change in spot was approved until four years later. Therefore, I find the Tenant's request to change spots was granted by the Landlord at no cost.

C. Preliminary issue: what is the lawful monthly rent?

21. The final issue to be determined is the lawful monthly rent.
22. This application was filed on March 31, 2025.
23. By virtue of section 135.1, the lawful monthly rent was 1,757.00 for the period ending December 31, 2023 and \$1,800.00 for the period ending December 2024, but for the AGI order which approves a 3.0% rent increase for 2021 and a 1.95% rent increase for 2022.
24. As the Landlord's claim for arrears is for a period after the increase, and since the Landlord has not provided the Board with a ledger going back to the period in question, I find the evidence is insufficient to establish the lawful monthly rent at this point.
25. This order contains all of the reasons for the decision within it. No further reasons shall be issued.

It is ordered that:

1. The request to review order LTB-L-026851-25 issued on June 30, 2025 is granted and replaced with the following order.
2. The interim order issued on October 20, 2025 is cancelled.
3. The Landlord's application is dismissed.

March 17, 2026
Date Issued

Sonia Anwar-Ali
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.