



AMENDED
Order under Section 16.1 of the
Statutory Powers Procedure Act and the Residential Tenancies Act, 2006

Citation: Jacobs v Equity Builders Ltd., 2024 ONLTB 65292

Date: 2026-03-20

File Number: LTB-T-029705-23-AM

In the matter of: 205B, 721 Earls Court Drive
Sarnia Ontario N7S1V1

Tenants

Between: Angela Jacobs
Gabriel Wright

And

Landlords

~~Equity Builders Ltd.~~
Equity Builders Inc.
E.Q.B. Ltd
721 Earls Court Inc.
Equity Builders.ca Inc
~~JOANNE SMOUT~~
~~TARANG SHAH~~
Ash Singh

AMENDED ORDER

The Divisional Court in *Equity Builders Ltd. et al. v. Landlord and Tenant Board et al.*, 2025 ONSC 759 (the ‘Equity’ decision) has referred to the LTB for a determination if Ash Singh ought to be named as a landlord. (Leave to appeal denied, July 18, 2025)

[82] The appropriate remedy for this breach of the duty of procedural fairness is to remit the matter back to the Board for a new hearing only on the narrow issue of whether Mr. Singh should be named as a landlord in the orders.

[135] The appeals and applications for judicial review are dismissed except with respect to the Board’s orders naming Mr. Singh as a landlord. That aspect of the Board’s orders is set aside, and that issue is referred back to the Board for a hearing on whether Mr. Singh ought to be named as a landlord.

The Tenants submitted a request for a clerical amendment to amend the names of the Landlords and add the correctly named corporate landlords and Ash Singh.

Equity Builders Ltd., a Saskatchewan-based corporation submitted a request for a clerical amendment to be removed as a named party.

The LTB convened a clerical amendment hearing on June 6, 2026, to determine the issues above.

Amendments are all bolded for easy reference.

Angela Jacobs and Gabriel Wright (the 'Tenants') applied for an order determining that Equity Builders Ltd., JOANNE SMOUT, TARANG SHAH, and Ash Singh (the 'Landlords'):

- altered the locking system on a door giving entry to the rental unit or residential complex without giving the Tenant replacement keys.
- substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenant or by a member of their household.
- harassed, obstructed, coerced, threatened or interfered with the Tenant.

This application was heard by videoconference on June 27, 2024.

The Tenants' Legal Representatives, Melissa Bradley, Andrew Bolter and the Tenant Angela Jacobs attended the hearing.

The Landlord's Legal Representatives, Timothy Duggan and Natasha Mizzi, as well as the Landlord, Ash Singh, attended the hearing.

The named Landlord is amended to reflect "Equity Builders Ltd.", the name of the Landlord set out in their written submissions dated July 19, 2024. This replaces "EQB Ltd Property Management" and "EQB LTD" that have been used interchangeably throughout these proceedings in documents produced by the parties.

CLERICAL AMENDMENT HEARING

This clerical amendment hearing was held via videoconference on June 6, 2025.

The Board issued interim order LTB-T-027930-23-IN on March 5, 2025, that set out directions to the parties for the clerical amendment hearing.

The Board decided to hold a clerical amendment hearing in accordance with the Interpretation Guideline 15 entitled Amending an Order.

The Member may hold a hearing to determine if the order contains a clerical error. If the request to amend is denied after holding a hearing, an order will be issued explaining why the request to amend has been denied. If the request to amend is granted, an amended order will be issued.

Attendance

The Tenant was represented by their legal representatives Melissa Bradley and Andrew Bolter.

Equity Builders Ltd., were represented by their legal representative Ramses L.K. Miki-Hanson.

Equity Builders Inc., and E.Q.B. Ltd., were represented by their legal representative Tim Duggan.

721 Earls Court Inc., and Ash Singh were represented by their legal representative Kim Ferreira.

Equity Builders.ca Inc., were not present or represented at this hearing although they were properly served with the Notice of Hearing by the Tenant. See Doc 5355180 at page 14.

For the purposes of this hearing, the Board directed that the file LTB-T-027930-23 would suffice as the “master file” for all submissions. However, parties would still be required to have access to all related files in the Portal as those amended orders are issued.

Preliminary Issues

1. On my own motion, in accordance with the *Equity* order found at paragraph [51] 2. the named landlords Joanne Smout and Tarang Shaw have been removed. This was at the Divisional Court; however I see no reason that it would not be applicable in these proceedings. Although I declined to hear from the parties on this issue, upon reflection, I believe it is fair in all the circumstances to remove them.

Adjournment Request

2. Kim Ferreira requested that this hearing be adjourned to a date after the Ontario Court of Appeal decision to grant leave and if so, the appeals hearings are complete. (see DOC-5515486 dated April 28, 2025)
3. Tim Duggan supported the request. (See DOC-5515484 dated April 28, 2025, at paragraphs 2 and 3)
4. The Tenants opposed this request. They submitted it would be prejudicial to the Tenants to delay these proceedings. (See DOC-5589408 dated May 9, 2025)
5. There was discussion as to if the request from Kim Ferreira had been submitted late, contrary to the interim order on March 5, 2025. Notwithstanding, the Board agreed to consider the motion.
6. The Board noted that at the February 27, 2025, hearing that there were no requests to postpone this hearing pending the decisions of the Court of Appeal. I note that at the February 27, 2025, hearing that Tim Duggan was appearing as an Agent for Ash Singh and did not have any instructions at that time because Ash Singh was in the process of retaining new legal representation.
7. The landlord parties appealing the decision at the Court of Appeal confirmed that they had not sought a stay at the Court of Appeal.

8. Kim Ferreira submitted that it would be procedural unfair to proceed until the Court of Appeal had decided. They submitted that the “misnomer” request should be the subject of a “new” proceeding with a proper record before the Tribunal. The implication being that the Tenants should be forced to file new applications against Ash Singh rather than addressing it in this proceeding. They referred to paragraph 82 of the *Equity* order.

The appropriate remedy for this breach of the duty of procedural fairness is to remit the matter back to the Board for a new hearing only on the narrow issue of whether Mr. Singh should be named as a landlord in the orders.

(emphasis added)

9. I disagreed with the characterization that the only way that Ash Singh could be added as a Landlord was via new applications. In my view, the proceedings today are a new hearing. Instructions to address this question were set out in the interim order issued on March 5, 2025. The parties were aware of the issues and afforded every opportunity to make written submissions and are permitted to augment those with oral submissions in this hearing.
10. The Board’s Interpretation Guideline 15 entitled Amending an Order indicates that correcting the name of a party is a clerical amendment where the party had an opportunity to participate in the proceedings.

A clerical error may be a Board error, or an error made by a party in documentation submitted to the Board that ends up being transcribed into an order or decision. A clerical error may include any of the following:

An incorrect name or address. For example, if the name or address is incorrect on the order but correct on the application, the error is likely clerical. If the name or address is incorrect on the application but the respondent received it and had an opportunity to participate in the proceeding, the error is likely clerical.

11. After considering the written and oral submissions from the parties, the Board decided to proceed to hear the referral and the requests for a clerical amendment and that the final orders would be delayed pending the decisions from the Court of Appeal.
12. The Court of Appeal issued their decision on July 18, 2025, Court File No., M55990 (COA-25-OM-0042) to dismiss a motion for an extension of time to file a motion for leave to appeal the decision of the Divisional Court.

Privileged documents

13. Tim Duggan submitted a written motion for an order that certain documents be removed from the adjudicative record because they contain settlement privileged

communications. (see DOC-5335690) Specifically, they allege that pages 91-94 to DOC-5093294 contain “without prejudice” discussions. In oral submissions they indicated that it is only the email found at page 91 that should be treated as privileged.

14. The Tenants denied that they documents could be seen as settlement privilege in the context of these proceedings. (See DOC-5510505, paragraphs 13-48). In oral arguments they submitted that in the alternative that there are exceptions to the doctrine of settlement privilege to permit the admission of documents in a proceeding. They submit that this was not a valid settlement offer, and that they had not authority to settle that claim in the manner proposed.
15. I have reviewed the written submissions and considered the oral arguments.
16. In my view, in these proceedings the documents are not privileged settlement discussions. The document beginning at page 92 refers to a new civil action initiated; which may be a public document. None of the Tenants are named parties, and therefore the Defendants could not agree to settlement terms affecting this proceeding.
17. Therefore, the motion is denied. I can advise the parties that those documents were not given any weight or consideration in my deliberations in the issues in this proceeding.

Jurisdiction

18. Subsection 201(1) of the Act provides that the Board may amend an application.

Other powers of Board

201 (1) The Board may, before, during or after a hearing,

...

- (f) on its own motion and on notice to the parties, amend an application if the Board considers it appropriate to do so and if amending the application would not be unfair to any party.

19. The Board’s Rules of Procedures also set out that the Board may amend an application and add parties.

1.6 In order to provide the most expeditious and fair determination of the questions arising in any proceeding the LTB may:

- (b) add or remove parties as it considers appropriate.

...

- (h) amend an application on its own motion where appropriate, on notice to the parties

20. The Board’s Interpretation Guideline 15 entitled Amending an Order indicates that correcting the name of a party is a clerical amendment.

21. There is civil caselaw from Ontario, not Landlord/Tenant, addressing the court's authority to correct a "misnomer" in how a party is identified in the pleadings.
22. The test of misnomer is whether it is clear that the plaintiff intended to sue the rightful defendant, that a party properly informed would have known from a reading of the statement of claim that the rightful defendant was being sued, and that the order is otherwise just; see *Stekel v. Toyota Canada Inc.*, 2011 ONSC 6507 (CanLII) at paragraph 24 and *Clarhar-Hebert v. Dan*, 2022 ONSC 5720 (CanLII), 2022 ONSC 5720 at paragraph 23.
23. The Superior Court of Justice in *Clarhar-Hebert v. Dan*, 2022 ONSC 5720 (CanLII), provides a useful summary of the misnomer caselaw.

[22] As stated by Justice O'Connell in *Urie v. Peterborough Regional Health Centre*, 2010 ONSC 4226 (Ont. S.C.J.) at para. 99:

[99] Misnomer refers to misnaming. It is a recognition that in some cases pleadings can be amended to reflect that the person who is referred to in the statement of claim is actually another, or that a person identified in the generic, such as John or Jane Doe is actually a specific person.

[23] The applicable test is as follows:

1. Is there a coincidence between the plaintiff's intention to name a party and the intended party's knowledge that it was the intended defendant; and
2. Are there circumstances that would make such an order unjust. (See *Lloyd v. Clark*, 2008 ONCA 343, para. 4; *Ormerod v. Strathroy Middlesex General Hospital*, 2009 ONCA 697, paras. 21, 28-29; *Loy-English v. Ottawa Hospital*, 2019 ONSC 6075 (Ont. S.C.J.) at para. 2; *Stekel v. Toyota Canada Inc.*, 2011 ONSC 6507 (Ont. S.C.J.), para 35; *Patrick v. The Corporation of the Municipality of Southwest Middlesex*, 2017 ONSC 17 (Ont. S.C.J.) at paras. 17-31; *Loblaw Properties Limited v. Turner Fleischer Architects Inc.*, 2017 ONSC 6127 at paras. 29-35)

[24] In *Loy-English* Justice MacLeod states as follows at para. 21:

[21] ...(e) To be a misnomer, the plaintiff must clearly have intended to sue the proposed defendant. The pleading must be drafted with sufficient particularity that an objective and generous reading of the pleading would demonstrate that the "litigation finger" is pointing at the proposed defendant. To put this another way, the pleading must be sufficiently clear that a properly informed defendant reading the allegation would be able to recognize that he or she was the target of

the allegation. The allegation must be clear and definite on its face and not held together through a series of assumptions about what the person reading the statement of claim might know.

[25] In *Stekel* Justice K.L. Campbell states as follows at para. 35:

[35] ... The proper application of the “misnomer” test cannot be reduced to a simple exercise of counting the number of parties in an effort to ensure that there is the same number of defendants before and after the proposed amendment to the Statement of Claim. Instead, as the authorities suggest, the governing legal analysis requires more nuance, and is focused upon whether there exists a coincidence between the plaintiff’s intention to name the defendant the defendant’s knowledge that it was the intended defendant. If, as a result of that “misnomer” analysis and the making of the proposed amendment, the number of defendants actually increases, then that is a legal result contemplated by s. 21(2) of the Limitations Act, 2002. ...

[27] In considering whether to exercise its residual discretion to refuse to correct a misnomer, factors to be considered include: whether there is non-compensable prejudice, although the absence of prejudice does not guarantee an amendment; whether the defendant was misled; any inordinate delay in seeking leave to amend; when notice of the claim was given and the passage of the presumptive limitation period; whether the proceedings are at an early or advanced stage; and the extent of the misnomer’s departure from a mere irregularity (*Loblaw Properties* at paras. 34 and 35; *Omerod* at paras. 28-32).

[28] Due diligence is not a relevant consideration on a motion for misnomer. As stated by the Court of Appeal in *Stechyshyn v. Domljanovic*, 2015 ONCA 889 at paras. 1 and 19:

[1] On a motion to correct the name of a defendant on the basis of misnomer, as long as the true defendant would know on reading the statement of claim that he was the intended defendant a plaintiff need not establish due diligence in identifying the true defendant within the limitation period *Kitcher v. Queensway General Hospital* (1997) 1997 CanLII 1931 (ON CA), 44 O.R. 3d 589 (C.A.) at paras 1 and 4; *Lloyd v. Clark* [2008] O.J. No. 1682, 2008 ONCA 343, 44 M.P.L.R. 4th 159 at para 4.

...

[19] If the respondents on the motion for misnomer had raised the issue of due diligence, they would not have succeeded. The respondent Domljanovic would have known on reading the statement of claim that he was the intended defendant. The jurisprudence is clear that, in such circumstances, due diligence does not apply. In *Kitcher*, the name of the correct defendant was in the plaintiff’s solicitor’s file. In *Lloyd*, the name of the correct defendant municipality

was readily ascertainable by typing in the location of the road in issue. The law that governs the addition of a party after the expiry of a limitation period does not apply.

24. This jurisprudence also considers and applies Rule 5.04(2) of the *Rules of Civil Procedure*.

5.04(2) At any stage of a proceeding the court may by order add, delete or substitute a party or correct the name of a party incorrectly named, on such terms as are just, unless prejudice would result that could not be compensated for by costs or by an adjournment.

25. The Court of Appeal in *Loney v. John Doe*, 2024 ONCA 748, addressed the application of the test contained in Rule 5.04(2) to a request by the appellants to change the name of the respondents more than three years after the trial record was served.

[10] In this case, the rule governing the proposed amendment is Rule 5.04(2) which addresses the doctrine of misnomer and permits the court to correct the name of an incorrectly named party: *Mazzuca*, at paras. 47-48.

[11] Rule 5.04(2) provides that “[a]t any stage of a proceeding the court may by order add, delete or substitute a party or correct the name of a party incorrectly named, on such terms as are just, unless prejudice would result that could not be compensated for by costs or an adjournment” (emphasis added). This is a permissive provision while the provision in Rule 26.01, by contrast, provides that “the court shall grant leave to amend [...] unless prejudice would result that could not be compensated for by costs or an adjournment.”

[12] There are two considerations under Rule 5.04(2) that must be met: (i) the moving party must satisfy the “litigating finger” test, and (ii) the amendment must not result in non-compensable prejudice.

[13] The “litigating finger” test will be satisfied if a person with knowledge of the facts would be aware of the true identity of a misnamed party by reading the statement of claim: *Spirito Estate v. Trillium Health Centre*, 2007 CanLII 41901 (ON SC) at para. 3, aff’d in 2008 ONCA 762, 302 DLR (4th) 654. See also: *Essar Algoma Steel Inc. v. Liebherr (Canada) Co.*, 2011 ONSC 1688, 280 O.A.C. 243, at paras. 15-16.

[14] If the “litigating finger” test is met, a plaintiff seeking to correct a misnamed party need not establish due diligence in its efforts to identify the true defendant where the claim was brought within the limitation period: *Stechyshyn v Domljanovic*, 2015 ONCA 889, 129 O.R. (3d) 236 at para. 1, citing *Kitcher v. Queensway General Hospital* (1997), 1997 CanLII 1931 (ON CA), 44 O.R. (3d) 589 (C.A.), at paras. 1 and 4. The time taken to amend the pleading after discovering a defendant’s actual name however, remains a factor to be considered under Rule 5.04(2): See *O’Sullivan v. Hamilton Health Sciences Corp.*, 2011 ONCA 507.

[15] Second, the defendant will be substituted unless there is evidence of non-compensable prejudice: Spirito trial decision at para. 3, citing *Davies v. Elsbey Brothers Ltd.*, [1960] 3 All E.R. 672; *Moreau v. Northwestern General Hospital* (1988), 1988 CanLII 4810 (ON SC), 65 O.R. (2d) 128 (S.C.); *Rakowski et al. v. Mount Sinai Hospital et al.* (1987), 1987 CanLII 4113 (ON SC), 59 O.R. (2d) 349 (S.C.); and *McArthur v. Kaal* (2006), 30 C.P.C. (6th) 150 (Ont. S.C.).

[16] Non-compensable prejudice may include the inability to conduct a timely investigation into the circumstances of the incident, the inability to take contemporaneous witness statements and preserve evidence, the inability to conduct early surveillance, the inability to obtain a timely defence medical assessment, and diminished witness recollection and memory: *Lyman v. Chan*, 2018 ONSC 4037, 88 C.C.L.I. (5th) 142.

[17] Where the delay between the initiation of proceedings and the filing of the motion to amend is “exceptional” or “inordinate”, courts will presume prejudice to the responding party: *1588444 Ontario Ltd. v. State Farm Fire and Casualty Co.*, 2017 ONCA 42, 135 O.R. (3d) 681. This presumption can be rebutted by either an adequate explanation for the delay or evidence that there is no non-compensable prejudice based on the facts of the case: *State Farm Fire*, at para. 37.

26. Finally, I would note that the Divisional Court by their order dated February 5, 2025 has referred the issue of whether Mr. Ash Singh ought to be named as a landlord in these proceedings.
27. The Board conducted a hearing on February 27, 2025, to address this issue. At that hearing the Tenants indicated that they intended to bring a motion to add additional corporate entities. The matter was adjourned so that the parties could provide a fulsome written record on the issues and all potential parties served notice.
28. As a result, I am satisfied that the Board has the power to amend the applications to correct a misnomer or to add or remove parties in this proceeding.
29. I would also note that the Tenants motion characterizes this as a request for a review, and that Kim Ferreira made submissions regarding the application of the Boards Rules of Procedures for reviews. In my view this is not a fatal error. The Board has made it clear that this was a clerical amendment hearing, a rehearing as phrased in the interim order. The parties were well aware of the issues to be decided and there is no prejudice in proceeding, particularly given that is trite law that the Board can control its own proceedings.
30. The Tenants requested an extension of time to file this motion, found at DOC-5333653 paragraph. 47
31. Kim Ferreira and Tim Duggan submitted that they cannot extend time to file an application. That is a mischaracterization of this proceeding and the request. This is

a clerical amendment hearing, in part directed by the Divisional Court to decide if the Board ought to name Ash Singh as a landlord. In my view a request to extend time to consider the courts directions is not required in regard to Ash Singh.

32. For the remaining corporate landlord's, I am satisfied that the request is timely in the context of this new proceeding, and that a request to extend time for a clerical amendment is not required. Ash Singh had personal knowledge of all of the named corporate entities including the one he routinely used that being Equity Builders Ltd, the Saskatchewan based corporation. All of the corporate entities were on notice of this proceeding as such there is no prejudice to them and they are represented by legal counsel. There is no issue of non-compensable prejudice because Ash Singh through legal counsel was present and/or represented throughout these proceedings and was afforded every opportunity to examine and cross-examine witnesses, whether on his own behalf as an individual or on behalf of any of the corporate entities.

Equity Builders Ltd.

33. Ramses L.K. Miki-Hason submitted that Equity Builders Ltd is a Saskatchewan based corporation that has no relationship with any of the parties to these proceedings and that they were improperly named in the proceedings. They requested to be removed from the proceedings.
34. The reason for this request is because Ash Singh held himself out as the principal of Equity Builders Ltd throughout these proceedings, in particular under oath adopting his will say statement where he states he is the principal of Equity Builders Ltd. In addition, the real Landlord took no action to correct the record to advise the Board of who the properly named Landlord's should have been.
35. None of the other parties, including the legal representative for Ash Singh opposed this request.
36. Therefore, the request to remove Equity Builders Ltd., is granted.

Equity Builders.ca Inc.

37. The Tenant requested to add Equity Builders.ca Inc., as a named Landlord. They submit that at all material times that Ashwyn Singh was the only named Director and Officer of this corporation, that this nom de guerre was one name among many used interchangeably by Ashwyn Singh and others in communication with the Tenants.
38. On an uncontested basis Equity Builders.ca Inc., is added as a named Landlord.

Ash Singh

39. Kim Ferreira requested that Ash Singh be removed as a named party. Although they did not provide written submissions on this issue, they provided a singular

comment in their submissions for a stay that I have considered. (See DOC-5515486, paragraphs 11)

40. The Tenants motion with respect to amending party names is found at DOC-5333653. At paragraph 2.a., b. they request that Ash Singh (a.k.a. Ashwyn Singh) be added or remain as a named Landlord.
41. In their written submissions at paragraphs 31 and 32, the Tenant state that they only discovered the error in the landlord names after the *Equity* decision was released, and in preparation to respond to the Divisional Courts referral back to the Board.
42. The Tenants also set out at paragraphs 65-78 for why Ash Singh should be a named Landlord in these applications.
43. The Tenant submitted that Ash Singh was in contact with the Tenants representative throughout all of the Board proceeding. The Agents and legal representatives always held out that they were there on instructions from Ash Singh.
44. The Tenants referred to the Tenant's Book of Evidence at DOC-5333662 beginning at page 485, where Ms Seale at the May 5, 2023, hearing advised the Board that Ash Singh is the Landlord. Ms Seale stated that Ash Singh is the Landlord and director and owner, and that he (Ash Singh) is the only one that has firsthand knowledge of this case.
45. The Tenants referred to DOC-1282579. That is an email from Ms Seale post-May 5, 2023 hearing in which Ms Seale provided the email addresses for Ash Singh and Tarang Shah so that per the Board direction they could be added to all of the files. I would note that the Board would have added these two parties in all of the applications based on this so that they would receive all communications from the Board.
46. The Tenants referred to the various notices of hearings issued by the Board that listed Ash Singh as a Landlord party to these proceedings. They submitted that at no time did Ash Singh object to being named in the proceedings.
47. The Tenants referred to their transcript to the September 29, 2023 hearing found at DOC-5333662 at page 489, where Ash Singh identifies himself as the Landlord. They also highlight other references to Ash Singh referring to himself as a landlord. (see page 496, 498-500, 501, 503, 514.
48. The Tenants also referred to the will-say statement of Ash Singh found at DOC-2119183 where Ash Singh states at paragraph 1 that he is the principal of the Landlord, Equity Builders Ltd.
49. The Tenants submit that in relation to this tenancy that it was Ash Singh that was the responsible directing mind, making all the decisions regarding their tenancy, regarding the lockout, access, compensation offers and return to the rental unit. They submitted that Ash Singh also used a number of email addresses when

communicating with the Tenants including ashsingh@equitybuilders.ca, and ash@eqbltd.ca.

50. The Tenants submit that it was self-serving of the Landlord not to correct the record because it avoided enforcement of the Board's orders. They also submitted that the proper name of the Landlord's was not in the pleading at the Divisional Court and the Court of Appeal and that the Landlord perpetuated the Landlord's names in those proceedings.
51. Kim Ferreira made oral submissions on behalf of Ash Singh.
52. They adopted the written submissions of Tim Duggan found at DOC-5515484 for submissions on why 721 Earls Court Inc., should not be added as a named Landlord. However, in oral arguments they agreed that a named Landlord in the lease agreements should be named in a Tenant application.
53. They rightly did not comment on the Landlords use of various *nom de guerre* in other Board proceedings against these Tenants beyond agreeing that whomever serves a notice should be the proper landlord.
54. At the hearing Kim Ferreira argued that adding Ash Singh is time limited. They submitted it was not raised in the proceedings.
55. They submitted corporations are separate individual legal entities that they make their own decisions and are themselves corporately liable for those decisions.
56. The submitted that it is trite law that the directors and officers of a corporation are not personally liable for the corporate decisions unless the corporate veil has been pierced.
57. They submitted that the Board may "go behind" the corporation to find individuals personally responsible or landlords. They stated that at no time has this been sought by the Tenants in this proceeding.
58. They submitted that on May 5, 2023 the Tenants were made aware that Ash Singh was the Landlord. The Tenants did not subsequently seek to amend their applications upon hearing this. They submit that the one-year limitation period would have commenced at that time. They submit that section 29 of the Act would now statue bar any amendment because more than a year has passed. They stated that *issue estoppel* applies.
59. They also submitted that the Board does not have authority to extend the time to amend the application or to make clerical amendments to the orders.
60. They submitted that the Tenants have not submitted a request to extend time and that the Board should not do so on its own motion because it would defeat the intents and purposes of the Act and for providing finality to the Landlord to know what they face.

61. They submitted that the will-say statement of Ash Singh was made in his capacity as the principal in the corporation Equity Builders Ltd., and not in his personal capacity.
62. They restated their argument that the procedure to add Ash Singh should be in the form of new applications that had been raised and addressed above. They indicated that if the extension of time is granted and in a new application Ash Singh should be permitted to address the newly formed applications and that the corporate veil is being pierced. I note it again given their insistence that they felt it important to protect the record on this point.
63. They stated that the Agent (Ms Seale) that attended the May 5, 2023 hearing with instructions from Ash Singh to seek an adjournment lacked any other authority to add Ash Singh as a Landlord (or to have named him as the Landlord) and likely spoke out of turn in doing so. They submit that the Board was free to add Ash Singh at this point, but ought to have more formally put him on notice that that was being done.
64. They submitted that Ash Singh in his dealings with the Tenants throughout these proceedings he was doing so in his corporate capacity and not in his personal capacity. That Ash Singh attended the proceedings does not in itself that he was acting in a personal capacity.
65. They submitted that the only reasons that the Tenants are seeking to maintain Ash Singh as a named Landlord is because he has deep pockets.
66. They agreed that in the prior hearing, the Board did ask for submissions on who should be named as a Landlord in these proceedings and that neither party made any submissions in that regard. Tim Duggan clarified that the Divisional Court did note that no submissions were made, and that the Board did not follow-up on this issue at paragraphs 74-79 of the *Equity* decision.
67. They submitted that the test to add or name Ash Singh has not been met, even when looking at it from the perspective of section 202 of the Act.
68. They submitted that they do not believe that there was an illegal act in these proceedings that warrant piercing the corporate veil.
69. Finally, they submitted that it was up to the Tenants to have done their own due diligence to determine who their Landlord is. It may well be that the people they dealt with and the corporations they were employed by should be properly named.
70. They also submitted that if Ash Singh is added, that he should be afforded an opportunity to cross examine the Tenants further.

71. The Tenant Representative Melissa Bradley made final arguments. They stated that the purpose of the Act is tenant protection. That there is no intent to get into corporate law, the Act already has a broad definition of who is a landlord.
72. They submitted that section 202 of the Act permits the Board to pierce the corporate veil when considering the real substance of all transactions and the good faith of the parties.
73. They submitted that the Board on their own motion raised the question of who the properly named Landlord on May 5 was, 2023 and that the Landlord's Agent provided that response. If that was in error Ash Singh did not correct the record.

Analysis

74. As discussed above the case law and jurisprudence of this Tribunal is that there is lawful authority to add parties to this proceeding.
75. Subsection 202(1)(a) of the Act provides that the Board may disregard the outward form of the separate corporate existence of participants.

202 (1) 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;

76. It is undisputed that at all material times, Ash Singh was the sole director and officer of the various corporate entities. In my view he is the directing mind behind all of them. As noted in the Board's interim order *Reinstated Residents v. Equity Builders Ltd*, 2024 ONLTB 16651 dated March 11, 2024 Ash Singh is noted at paragraph as 111 as being the one making all the decisions that were affecting the Tenants.
77. The Board heard that Ash Singh wanted direct contact with the Tenants at any time to negotiate a resolution to these applications.
78. As noted by the Court of Appeal in *Slapsys (1406393 Ontario Inc.) v. Abrams*, 2010 ONCA 676 (CanLII), the definition of "landlord" in the Act is not restricted to the owner of a rental unit and it clearly contemplates that there may be more than one "landlord".
79. Subsection 2(1) of the Act states :

" 'landlord' includes,

(a) the owner of a rental unit or any other person who permits occupancy of a rental unit, other than a tenant who occupies a rental unit in a residential

complex and who permits another person to also occupy the unit or any part of the unit,

(b) the heirs, assigns, personal representatives and successors in title of a person referred to in clause (a), and

(c) a person, other than a tenant occupying a rental unit in a residential complex, who is entitled to possession of the residential complex and who attempts to enforce any of the rights of a landlord under a tenancy agreement or this Act, including the right to collect rent.

80. I would also adopt the reasoning in EAL-87318-19-RV, 2021 CanLII 150009 (ONLTB) at paragraph 12.

The definition of “landlord” is intended to be broad as a form of consumer protection for tenants. That is also true for the broad definition of “tenant” contained section 2(1) of the Act. It is not uncommon for a tenant to deal exclusively with a property management company or other personal representatives of the owner and to have no knowledge of who actually owns the residential complex they live in. The broadness of the definition helps ensure that a tenant is not required to conduct expensive property searches to discover who is the owner of the building they live in, but instead they can name in an application filed with the Board the person or party who has assumed the right and responsibilities of the landlord during their tenancy

81. It is trite law that the Act is remedial legislation with a “tenant protection focus” that has been determined at the Divisional Court and the Ontario Court of Appeal. The Court of Appeal in *Smith v. Youthlink Youth Services*, 2022 ONCA 313 (CanLII) at paragraph 25 affirmed a prior Court of Appeal decision that the Act is designed to redress the imbalance of power and removes leases from the ordinary contract law principles.

[25] How is s. 5(k) to be understood in the context of the Act? The starting point is that the Act is “remedial legislation designed to redress the imbalance of power between landlords and tenants. It removes leases from the ordinary contract law principles that would otherwise govern and establishes extensive statutory rights for tenants”; *White v. Upper Thames River Conservation Authority*, 2022 ONCA 146, at para. 10. But this remedial purpose is relevant only where a landlord-and-tenant relationship exists, and s. 5 makes plain that not every situation in which accommodation is provided is to be regarded as a landlord-and-tenant relationship.

82. Kim Ferreira submissions that the test for determining who is a Landlord was not met are rejected. The failed to indicate which part a test, if any, that Ash Singh could not be reasonably found on a balance of probabilities to not be a landlord.

83. Finally, regarding any suggestion that Ash Singh should have some further opportunity to cross-examine the Tenants on this issue, they failed to call any of the Tenants that were present in the hearing and they did not serve any summons on any of the Tenants that they believed would have relevant information to assist the Board in determining this question.
84. In my view in consideration of all of the testimony and evidence in these proceedings it is clear on a balance of probabilities that Ash Singh is/was at all times a person enforcing the rights of a Landlord and therefore meets the definition of Landlord.
85. Given that Ash Singh was aware of these proceedings before they were initiated, and throughout and participated fully themselves with legal representation and failed to disclose that they were improperly named and in fact misled this Board about their relationship with Equity Builders Ltd., strongly supports that there is no unfairness in adding him personally as a Landlord, and in doing so piercing the corporate veil. This would seem especially true as the respondents intentionally failed to address this issue during the original hearing, when given that opportunity, which suggests they were not conducting themselves in good faith.
86. This in my view is a just outcome to redress the power imbalance being exerted by Ash Singh by and through the various corporate entities to shield themselves from liability.
87. Therefore, Ash Singh shall be added as a named Landlord.

Request to add parties

88. The Tenants requested to add Equity Builders Inc., E.Q.B. Ltd., and 721 Earls Court Inc. as additional named Landlords.
89. In their written submissions the Tenants state that some Tenants have lease agreements naming E.Q.B.Ltd., as Landlord, and some have 721 Earls Court Inc., as a named Landlord. They also state that some have lease agreement with the former Landlord before the residential complex was purchased by 721 Earls Court Inc.
90. They also submitted that the Tenants have received correspondence from employees of these corporate entities, including Ash Singh and in the name of other entities that are not legal corporations.
91. Kim Ferreira adopted the written submissions of Tim Duggan found at DOC-5515484 for submissions on why 721 Earls Court Inc., should not be added as a named Landlord. However, in oral arguments they agreed that a named Landlord in the lease agreements should be named in a Tenant application.
92. Tim Duggan provided written submissions at DOC-5515484 on behalf of their clients.

93. They submit that the Tenants were responsible to properly name their landlord in their own applications through the proper exercise of due diligence.

94. They submit that the Tenants took no action to amend their own applications to name any of the corporate landlords.

95. Finally, they submit that the Tenants are out of time file this request.

Analysis

96. For the reasons set out above in particular those at paragraph 80 and the discussion on the Board's jurisdiction to correct a misnomer.

97. I would also say that the conduct of Ash Singh to have misled the Tribunal in his statement that was adopted under oath, that they are a principle to Equity Builders Ltd., when in fact that was not true, supports that these corporate landlords' should be added.

Outcome:

98. I am satisfied that the Landlords have sufficiently completed repairs to the second floor to permit the Tenants to be permitted to return to their rental unit based on the City of Sarnia granting occupation thereof. Therefore, the Landlords shall be ordered to restore possession to the Tenants.

Preliminary:

99. This hearing was reconvened on June 27, 2024 in order to assess the Landlords' progress in completing repairs to the rental unit in order to restore the Tenants back into possession.

100. At the conclusion of the hearing, parties were permitted to provide written submissions regarding the Board's jurisdiction to order some Tenants re-instated, in particular to those rental units located on the second floor.

101. The Tenants provided written submissions [DOC-3741026].

102. The Landlords provided written submissions [DCO-3776918]

Prior Orders

103. The Board also issued an interim order on May 8, 2023, directing the Landlord to preserve the tenancies and property of the Tenant's. (the preservation order) In that order the Board was not satisfied that the Tenant's were locked out illegally by the Landlord. That order applies to this tenancy.

104. On July 20, 2023, the parties appeared before the Board, where oral directions were provided to confirm dates for disclosure and hearings.

105. On March 11, 2024, the Board issued an Interim Order that set out the findings of the Board following the conclusion of the hearings that took place September 21, 22, 29, 2023 and October 20, 2023 and in consideration of all submissions by the parties.

106. The prior orders are incorporated into this order by reference. They should be read in conjunction with this order that will set out remedies and final orders for this application related to unit 205B, 721 Earls court Drive, Sarnia, building B as a result of a fire that occurred February 19-20, 2023.

Determinations:

Testimony September 2023

107. The Tenant Angela Jacobs testified. They adopted their will say statement, see DOC-1902382. They also indicated that the remedies set out in the same document under the Will Say of Gabriel Wright are what they are seeking.

108. They testified that they have lived in the rental unit since 2010 and currently pay \$692.26 in rent. They reside with Gabriel Wright and their daughter.

109. They testified that they have been residing with family after the fire. They are now renting closer to their place of employment. They stated that they have not been permitted into their rental unit since the fire. As a result, they indicated that they have had to replace a lot of items.

110. They testified that they did not receive any updates from the Landlords on when they could return to their unit. They indicated on cross-examination that the Landlords did not provide any updates, that it was them who contacted the Landlords seeking information and updates. The only reply by telephone they received was to be told there could not no entry. They were also told to look for another place to live, and to obtain tenant insurance before they would be permitted to return.

111. They testified that they could not recall if when they signed the lease that the lease indicated that they should take out tenant insurance.

112. In their will say statement they indicate that the Landlords are not treating them fairly as tenants.

113. They testified that the harassment from the Landlords was in part due to the lack of communications from the Landlords. They indicated that most communications was initiated by Gabriel Wright.

114. They testified that when they were told to look for another place that was the coercion; and that even then, they had to keep calling before Joanne Smout eventually answered.

Testimony Ash Singh

115. The Landlord Ash Singh testified. They adopted their will say statement, see DOC-2119004.

116. Their testimony is set out in the March 11, 2024 order at paragraphs 98 to 114.

Analysis prior findings

117. At paragraph 117 of the March 11, 2024 order, the LTB determined that at that time the Landlord continued to have lawful authority to restrict access.

118. At paragraph 130 of the March 11, 2024 order, the LTB determined that the Landlord had interfered with the reasonable enjoyment of the Tenants, that they had obstructed, coerced, threatened or interfered with the Tenants.

June 27, 2024 hearing

Ash Singh testimony

21. The Landlord Ash Singh testified. They stated that sometime in February 2024 their insurance company had “demobilized” the worksite because they could not get work done. In effect they stated that no work was being done in the residential complex. They placed the blame on 3 tenants that say who are refusing to vacate their rental units.
22. The Landlord testified that they must complete the unit repairs and then complete the common areas.
23. They referred to a letter dated April 30, 2024, from their Insurance company, Co-Operators that indicated it would take 9-12 months to complete repairs. They also indicated that the letter states that the delays are due to tenants not willing to cooperate or provide “reasonable participation”.
24. The Landlord had to be cautioned several times that their personal attacks against the Tenant’s Legal Representative were not appropriate. In his own defence the Landlord stated that he wanted the tenants to know what he thinks of their representative. He stated that he may be suffering mental health issues and may need support. These comments were not given any consideration in this decision.
25. The Landlord also complained that at the prior hearings he had to listen to all kinds of things from the Tenants and that he had not been permitted to respond. These comments were also not given any consideration in this decision.
26. The Landlord testified that they had been advised by their insurer that the second floor of building B remains shut down. They stated that they feel like they are just in the middle, cant go against what insurer says and risk losing coverage.

27. The Landlord testified regarding a City of Sarnia Building Inspection Report dated November 24, 2023. (page 11 of a document labelled 721 Earls Court Permit Inspections and Reports, attached to an email dated June 27, 2024 from the Tenant's Legal Representative to the Landlord's Legal Representatives). The report provides that occupation of the second floor is "granted" excluding units 206, 208 and 210. The Landlord stated that the insurer advised work is not complete on second floor, and that they received no breakdown of what repairs were required, by unit, common area's, and outside structural repairs.
28. The Landlord testified that in relation to the residents of the other 3 units not cooperating that they had withdrawn their L2 applications because they felt it would delay matters and they wanted the cleanest easiest format to move forward.

Adam MacDonald testimony

29. Adam MacDonald is the Chief Building Inspector for the City of Sarnia.
30. Adam Macdonald reviewed the November 24, 2023 inspection report comments. He confirmed that it appears that occupancy had been granted for second floor units, except for 3 specified units. He testified that as construction proceeds, the city conducts inspections and issues inspection reports. In this instance the inspection report granted occupancy to the second floor.
31. He testified that this November 24, 2023 occupancy permission does not amend his February 27, 2023 "Order to Remedy Unsafe Building". He stated that there is no requirement for the City of Sarnia to amend their order until the Landlord had satisfied all requirements of their order. He stated that once the February 27, 2023 order had been fully complied with it would be removed.
32. Adam MacDonald testified that the occupancy granted by the November 24, 2023 inspection report would not be a breach of the February 27, 2023 order, because it is permitted occupancy to the second floor hallway and units not otherwise still restricted.

Post-hearing submissions

33. The parties were permitted post-hearing submissions on the jurisdiction of the LTB to order reinstatement to the second-floor units.
34. The Tenant's submissions are found at DOC-3741026.
35. The Landlord's submissions are found at DOC-3776918.

Analysis

36. The Landlord adopts the position that the February 27, 2023 order continues to be binding on the Landlord until such time as it is amended or removed. They submit that the February 27, 2023 order was determinative in finding that the Landlord had not illegally locked out the Tenant. They state that the Tenants are attempting a collateral attack on the

February 27, 2023 order by seeking restoration before the order has been fully complied with by the Landlord.

37. They submit that the Landlord's primary concern is exposure to prosecution or other liability if they breached the February 27, 2023 order.
38. They also submitted that the Landlord is facing ongoing financial prejudice as they have 7 vacant units that the Landlord cannot re-rent or collect rent.
39. I have given no consideration to the Landlord's submissions re exposure to prosecution and financial prejudice. The Landlord did not testify on these issues to lead any evidence in this regard. The Landlord did testify that he has units on the second floor that he cannot rent out. The Landlord's insurer has previously testified that they are reimbursing the Landlord for lost revenues as a result of the February 27, 2023 order, including for those found to be illegally locked out.
40. The Tenants submits that once the Inspection report of November 24, 2023 was issued, granting access to their rental unit, that the Landlord no longer has authority to lock out the Tenant. They submit that the City of Sarnia by issuing these progress inspection reports that the City need not amend the February 27, 2023 order.
41. I am satisfied on a balance of probabilities that the Tenants are entitled to possession of their rental unit. The City of Sarnia detailed their processes that they do not amend unsafe order until they have been fully complied with. The City of Sarnia was unequivocal that occupation had been granted. In my view it is doubtful that the City of Sarnia would refer charges for breaching the February 27, 2023 order, where their own progress inspection report of November 24, 2023 permitted access to the second floor and most of those units.
42. This application was brought by the Tenants in order to protect their right to return to their rental unit once permitted. It was permissible as of November 28, 2023.
43. In my view, this is not a collateral attack on the February 27, 2023 order. It is consistent with progressive and ongoing nature of building inspections to confirm one or more of the requirements under the building permit, or remedial measures ordered in the February 27, 2023 order have been satisfied or are no long necessary. By their November 28, 2023 inspection, the City of Sarnia was satisfied that the order to remedy and building permits had been partially complied with and satisfied such that occupancy of the second floor was expressly permitted.

Remedies

44. The Tenant testified that their life has been affect, that it is tremendously unknown what is happening, they go to work, and at all is upside down with obstacles to get over. They are paying higher rent in Sarnia while waiting for permission to return to their rental unit. They also stated that they could not work as much initially because of the commute and the requirement to drive their child back and forth to school. They could not even walk to a grocery store and had to drive.

General Damages

45. In their will say statement, the Tenants:

- a. requested that the Landlord pay \$5,000.00 for harassment.
- b. requested that the Landlord pay \$5,000.00 for coercion.
- c. \$3,475.58 for out of pocket expenses to replace items.
- d. requested general compensation in an amount equivalent to the daily rental rate (\$21.75) for the Landlord's failure to permit the Tenants to access their items in the rental unit.

119. The Divisional Court in *Mejia v. Cargini*, 2007 CanLII 2801 (ON SCDC), affirms that the Board may award damages under the "any other order" remedy clauses in the Act. This is compensatory damages following the principle of attempting to put the Tenant in the same position they would have been in had there been no breaches of the Tenancy. The Divisional Court awarded \$4,000.00 general damages for interference with reasonable enjoyment.

120. The Landlord submits that the Tenants did not indicate in their application that they were seeking any other order specifying general damages. The application had not been amended to add that remedy, and therefore it should be denied.

121. Although the Tenant did not check Box 11 "any Other Remedy" they set out in their will say statement the general damages that they were seeking and the Landlord was afforded the opportunity to cross examine them on the remedies. As a result, I am satisfied that the Landlord had effectively been on notice via the will say statement and testimony that the Tenant was seeking general damages as described, even if not exactly framed as an amendment to the application.

122. I have already found that the Landlord engaged in harassing and coercive conduct, as set out in the March 11, 2024 order.

123. In this case, it is about the communications and updates from the Landlord and the message they communicated when they failed to respond or suggested that they find other place to live and placed all their emphasis on convincing the Tenants to terminate their tenancy. This is aggravated further by the fact that the Landlord has known since the November 28, 2023 inspect report was issued that the Tenants could return to their unit and were deliberately blind to it, or otherwise chose to ignore it. In either sense, they failed to provide any update to the Tenants regarding this pivotal issue.

124. In my view the Landlord appears to be taking a "collective punishment" approach to keep out as many tenants as possible for as long as possible in the hopes they will compel "reasonable participation" from some tenants that the Landlord has a dispute with. This is patently unfair; the Landlord should provide ongoing and specific advice to each tenant without regard for any disputes with any particular tenant.

125. The Landlord denied access to the rental unit, where it was within his power to grant limited access to retrieve some household goods.
126. The Tenants provided some receipts for various items that had been replaced. They also stated that they were seeking compensation for replacing beds, TV, furniture and household goods.
127. The City of Sarnia granted permission for the Tenant to occupy their rental unit as of November 28, 2023, and the Landlord has withheld this information from the Tenants and refused to permit the Tenant to return. The Tenant has been compelled to remain out of their rental unit for longer than necessary. Taking all this into account, I am satisfied that in all the circumstances that general damages in the amount of \$.00 is appropriate. I would break this down as \$10,000.00 requested for the harassment and coercion, \$3,094.00 to replace items that were or will be replaced because the Landlord refused access, and an additional \$5,000.00 for the unnecessary delay caused by the Landlord in not facilitating the Tenant's return on or shortly after November 28, 2023 when the City of Sarnia permitted occupancy. This is not the full amount requested by the Tenant in terms of daily compensation; however, I am not satisfied that the 100% per diem rate was appropriate.

Administrative Fine

128. The Tenants did not request that the LTB order the Landlord to pay a fine, made no submissions on this issue and therefore I am not making an order for an administrative fine to be paid.

Costs

129. The Tenants requested that their application fee of \$53.00 also be reimbursed. They are entitled to reimbursement.

It is ordered that:

1. The total amount the Landlords shall pay the Tenants is \$18,147.00. This amount represents:
 - \$3,094.00 for the reasonable costs that the Tenants have incurred or will incur to replace property as a result of the Landlord's actions.
 - \$15,000.00 in general damages.
 - \$53.00 for the cost of filing the application.
2. The Landlords shall pay the Tenants the full amount owing by September 15, 2024.
3. If the Landlords do not pay the Tenants the full amount owing by September 15, 2024, the Landlords will owe interest. This will be simple interest calculated from September 16, 2024 at 7.00% annually on the balance outstanding.
4. **If the Landlords do not pay the Tenants the full amount owing by March 31, 2026, then commencing April 1, 2026, the Tenant may deduct this amount from the lawful rent until it has been paid in full.**
5. **The party Equity Builders Ltd., is removed as a named party in these proceedings.**
6. **The party Ash Singh is named as an individual Landlord respondent.**
7. **The corporate entities Equity Builders Inc., E.Q.B. Ltd., 721 Earls Court Inc. and Equity Builders.ca Inc are added as Landlords.**
8. **The named parties Joanne Smout and Tarang Shah are removed as named parties in these proceedings.**
9. The Landlords shall immediately allow the Tenants to recover possession of the rental unit and provide the Tenants with keys to the doors of the rental unit and the residential complex.
10. The Landlords shall not re-rent the unit to anyone else.
11. If the Landlords do not allow the Tenants to recover possession of the unit, the Tenants may file this order with the Court Enforcement Office (Sheriff) so that the order may be enforced.

12. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give expedited possession of the unit to the Tenants.
13. If the Landlords do not provide keys to the Tenants, and the Sheriff changes the locks, the Landlords are not permitted to change the locks afterwards in the absence of an express order of the LTB.

March 20, 2026
Amended Date
Issued

Robert Patchett

Vice Chair, 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.

The part of this order allowing the Tenants to recover possession of the unit and prohibiting the Landlord from re-renting the unit to anyone else expires and cannot be enforced if:

- a. The Tenants do not file this order on or before September 19, 2024 with the Court Enforcement Office (Sheriff) which has territorial jurisdiction where the rental unit is located, or
- b. The Tenants file this order with the Court Enforcement Office (Sheriff) but the order has not been enforced on or before October 19, 2024.