



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

Citation: Preston v Gazi, 2026 ONLTB 23649

Date: 2026-03-20

File Number: LTB-T-089869-24-RV

In the matter of: Unit 1, 51 Jacobson Ave
St Catharines ON L2T3A1

Between: Scott Preston
Monica Tenny Tenants

And

Hamidur Gazi
Muhammad Masud Landlords

Review Order

Scott Preston and Monica Tenny (the 'Tenants') applied for an order determining that Hamidur Gazi and Muhammad Masud (the 'Landlords') failed to meet the Landlords' maintenance obligations under the *Residential Tenancies Act, 2006* (the 'Act') or failed to comply with health, safety, housing or maintenance standards.

On January 11, 2026, the Landlords requested a review of interim order LTB-T-089869-24-IN issued on December 5, 2026.

The review request was heard by videoconference on March 16, 2026.

The Landlords, the Landlord's representative John Lambe, and the Tenants attended the hearing.

Determinations:

Review

1. At the hearing that occurred on November 26, 2025, the Landlords raised that the Tenants' application should be dismissed because the parties signed an N11 Agreement to End the Tenancy ('N11') that included additional terms. One of those terms was that both parties would withdraw the respective applications they had at the Landlord and Tenant Board ('the Board'). The terms explicitly reference the file numbers of those applications and included LTB-T-089869-24 which is this file. The Landlords withdrew their application, but the Tenants did not.

2. Interim order LTB-T-089869-24-IN issued on December 5, 2025 denied the Landlord's request to dismiss the application. The Landlord submits that serious errors were made by the Board in doing so. For the following reasons I agree.
3. Rule 26.1 of the Board's Rules of Procedure establishes that any party may request review of any order which makes a final determination of the party's rights. While the order under review is an interim order it makes a final determination regarding the Landlord's preliminary issue and ability to advance a viable defence. It therefore can be the subject of a review.
4. The interim order narrowly considers that the doctrine of res judicata does not apply because no Board order states that it resolves all matters between the parties. The interim order made a serious error by not considering more broadly whether it would be an abuse of process for the application to proceed in light of the written agreement between the parties to withdraw the application. Put differently the interim order made a serious error by only considering whether a Board order prohibited the Tenant's application from proceeding and did not meaningfully engage with the question of whether the parties' written agreement should bar the application from proceeding.
5. The recording reflects that the Landlord raised the terms of written agreement attached to the N11 at the hearing. The interim order also references the motion order LTB-L-009252-25-SA issued on April 28, 2025 which also discusses those terms. As such the issue of the terms attached to the N11 agreement was before the Board.
6. The interim order contains no reasons about the contents of the written agreement, whether it would be an abuse of process for the tenant's application to proceed, or why that question was not addressed. It was a serious error for the Board to unreasonably narrow the issue to purely a consideration of whether a Board order stated that it resolved all issues between the parties and it was a serious error for the Board to provide insufficient reasons for denying the preliminary issue. The review request is therefore granted.

Abuse of Process

7. As the review was granted, the Landlord's preliminary issue was reheard. For the following reasons I find that it would be an abuse of process for the Tenant's application to proceed. The application is accordingly dismissed.
8. The parties signed an N11 agreement that contained the following additional terms:

"Upon signing of the N11 Agreement to End the Tenancy all parties agree that this resolves all issues pertaining to the tenancy and will refrain from bring any further claims against each other. The Landlord shall withdraw file LTB-L-089562-24 and the Tenants shall withdraw file LTB-T-089869-24 upon the Tenants vacating the property" (DOC-7526747, page 3-5).
9. The Board's records reflect that the Landlord withdrew the application they said they would. The tenant application referenced in the terms agreed to by the parties is the application before me. The Tenants did not withdraw it and seek to proceed on it.

10. The Tenant Monica Tenny initially denied signing the N11 but then said she used DocuSign to sign it. The document is also signed by the Tenant Scott Preston. The date by the signatures is December 23, 2024.
11. Emails between the parties reflect that in December 2024 the parties discussed the waiver of rent in the context of the tenancy terminating (DOC-7526747, pages 17-28). In an email dated December 23, 2024, the Landlord's representative sends the Tenants a copy of the N11 and says "If you are in agreement to these terms whereby you withdraw your LTB matter, and the Landlords will withdraw their matter. The Landlord will waive the December 2024 rent voiding the N4 notice that was served on December 21, 2024. Your last month's rent deposit will be used for your last month's rent being January 2025..."
12. The Tenants submits that the agreement to withdraw the applications was conditional, that the conditions were never fulfilled, that during the discussions for the N11 the Landlords issued a N4 notice of termination for December 2024 rent arrears ('N4'), that the Tenants' repudiated the agreement, and that the Landlords intimidated the Tenants into signing the agreement. None of the Tenants' arguments satisfy me that the written agreement is invalid.
13. The Landlords followed through with the agreement. The Landlords withdrew their application. The Tenants did not. The N11 signed by the parties actually does not reference the waiver of rent. As such I'm not entirely satisfied it was even a conditional element of the agreement. However, even if it was, the Landlords did follow through on their promise not to collect December 2024 rent. The N4 notice was served on December 21, 2024, which is before the parties signed the N11. The Landlord never pursued an application based on the N4. The Tenants made the unilateral decision to pay December 2024's rent but could not point to any evidence that proved the Landlords asked them to do so. The Tenants also made the unilateral decision to not vacate the rental unit by the termination date. The last month's rent deposit was not applied to January 2025 because the Tenants refused to move out and the tenancy ended on a later date. That the Tenants changed their mind about the agreement does not satisfy me the agreement was therefore invalid. The Board already addressed the Tenants' claim that they were pressured into signing the N11 in order LTB-L-009252-25-SA issued on April 28, 2025. The Board found that the Tenants were not pressured into signing the agreement and upheld the order terminating the tenancy based on the agreement.
14. Section 197 of the *Residential Tenancies Act, 2006* ('the Act') establishes that the Board may dismiss an application without holding a hearing or refuse to allow an application to be filed if, in the opinion of the Board, the matter is frivolous or vexatious, has not been initiated in good faith or discloses no reasonable cause of action.
15. The Board has consistently found that parties agreeing to resolve all issues in a tenancy prohibits parties from being able to proceed on applications covered by the agreement. See for example *TST-55299-14-IN (Re)*, 2015 CanLII 10094 (ON LTB), *TET-03940-19 (Re)*, 2020 CanLII 61256 (ON LTB), and *TST-94423-18 (Re)*, 2018 CanLII 123294 (ON LTB).
16. The written agreement between the parties has all the elements of a valid agreement, offer, acceptance, consideration, meeting of the minds etc. The terms of the agreement are extremely clear that the Tenants agreed to withdraw this application. The Landlord

withdrew their application, but the Tenants failed to uphold their end of the bargain. That the Tenants' changed their mind does not satisfy me that the agreement should not be upheld. To refuse to uphold the agreement would be fundamentally unfair and an abuse of process.

It is ordered that:

1. The request to review order LTB-T-089869-24-IN issued on December 5, 2025 is granted.
2. Interim order LTB-T-089869-24-IN is canceled and replaced with the following:
3. The application is dismissed.

March 20, 2026
Date Issued

Amanda Kovats
Member, 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.