



Order under Section 87 Residential Tenancies Act, 2006

File Number: LTB-L-088378-23

In the matter of: 29 DEPEW ST
HAMILTON ON L8L7H7

Between: Startree Management Inc. Landlord

And

Onaivi Emmanuel Obende Former Tenant

Startree Management Inc. (the 'Landlord') applied for an order requiring Onaivi Emmanuel Obende (the 'Former Tenant') to pay the rent and daily compensation that the Former Tenant owes.

This application was heard by videoconference on December 15, 2025.

Only the Landlord's Agent Dave Dave attended the hearing.

As of 10:40 a.m., the Former Tenant was not present or represented at the hearing although properly served with notice of this hearing by the Landlord. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Procedural History:

1. The application appeared before the Board on November 7, 2025, and adjourned at the Landlord's request.
2. This matter appears before the Board again on July 31, 2025, and adjourned on consent of the parties.

Determinations:

1. As explained below, the Landlord has not proved the allegations contained in the application on a balance of probabilities.
2. I am not satisfied that the Landlord served the Former Tenant with the application and Notice of Hearing using a method permitted in subsection 191(1.0.1) of the *Residential Tenancies Act, 2006* (the 'Act') and Rule 3.3 of the LTB's Rules of Procedure.
3. I turn to Rule 3.3 states that:

“In addition to methods of service identified in the RTA a document may be served on a tenant or former tenant no longer in possession of a rental unit, by:

ii. if it can be proven that the contents actually came to the attention of the tenant or former tenant.”

4. The evidence submitted regarding the notice of the video conference hearing was provided by email dated December 15, 2025, the same date as the hearing. There is no evidence that this notice was ever brought to the Tenants’ attention.

5. Additionally, Rule 5.16 states:

“ Pursuant to Rule 5.16, the LL is required to file proof of service at least 20 days prior to the hearing date.”

6. The Landlord failed to upload, file, or provide any evidence that this notice of hearing was delivered within the required 20 days.

7. Further, the Landlord never filed a Certificate of Service – L10 Serving a Former Tenant or Tenant No Longer in Possession of the Rental Unit, neither for this hearing nor the passed two hearing.

8. Although verbal direction may have been provided during the hearing concerning an 11-day order, such verbal comments constitute obiter dicta and do not form part of the Board’s binding determination. Procedurally, only the written order—issued after the conclusion of the hearing—constitutes the official and enforceable decision. Any oral comments made by the Member during the proceeding are not dispositive, are not reasons for decision, and cannot substitute for compliance with statutory or procedural requirements. They cannot cure the Landlord’s failure to meet the mandatory service obligations under the Rules. In short, the Landlord cannot rely on informal, non-binding comments to remedy procedural deficiencies or to circumvent the requirement for proper service, proof of service, and timely filing.

9. For all the reasons given above, the Landlord’s application shall be dismissed.

It is ordered that:

1. The Landlord’s application is dismissed.

March 26, 2026
Date Issued

Anthony Bruno
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.