



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

Citation: Losani Homes (1998) Ltd. v Kuyvenhoven, 2026 ONLTB 24315

Date: 2026-03-25

File Number: LTB-L-072146-25-RV

In the matter of: 260 MAIN ST W
GRIMSBY ON L3M1S4

Between: Losani Homes (1998) Ltd. Landlord

And

Jeremy Kuyvenhoven Tenant

Review Order

Losani Homes (1998) Ltd. (the 'Landlord') applied for an order to terminate the tenancy and evict Jeremy Kuyvenhoven (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-072146-25 issued on December 22, 2025.

On January 21, 2026, the Landlord requested a review of the order.

On January 23, 2026 interim order LTB-L-072146-25-RV-IN was issued, directing the request to review to a hearing.

This request to review was heard by videoconference on February 19, 2026.

The Landlord's agent, Fred Losani ('FL'), the Landlord's legal representative, Charlotte Kathleen Walton ('CW'), and the Tenant attended the hearing.

Determinations:

1. The Landlord's application was dismissed by the order issued on December 22, 2025. The application was dismissed because the Member found that the Landlord did not establish what, if any, amount was owing by the Tenant. What, if any, amount was owing was complicated by the Tenant's evidence that he made a cash payment of \$8,700.00 at the outset of the tenancy, which was to cover the rent for the first month, the last month, and one additional month during the tenancy (the monthly rent agreed to was \$2,900.00).
2. The Member also accepted that there was an agreement between the parties that the Tenant would perform services in exchange for the right to occupy the unit. CW and the Landlord's agent at the original hearing acknowledged that there was some form of

“services rendered” arrangement, but they did not know the details. This agreement was not addressed in the written tenancy agreement.

3. The Tenant said the arrangement was made directly with the Landlord’s CEO, but the CEO was not present at the hearing. As a result, the only person present at the hearing with direct knowledge of the substance of the agreement was the Tenant.
4. The Member wrote in the order that there was no reliable evidence before him relative to how the services were to be credited against the rent, whether (or when) the services-for rent arrangement ended, or how the claimed rent arrears of \$52,200.00 was calculated in light of the \$8,700.00 cash payment and the services rendered.
5. The Member therefore found that the Landlord failed to prove its case on a balance of probabilities.
6. CW’s submissions at the review hearing focused on fresh evidence that is available, in the form of text messages between the Tenant and the CEO relevant to the amounts the Landlord claims the Tenant owes. The Landlord’s CEO, FL, was present at the review hearing, and said that these text messages reveal that the Tenant admitted to the arrears owing, asked the Landlord to accommodate him, and that the Tenant promised to pay the arrears. FL said that despite the Tenant’s claim at the initial hearing, there was no agreement whereby the Tenant would perform services as consideration for the rent owing.
7. This statement by FL at the review hearing appears to contradict the acknowledgement by CW and the Landlord’s agent at the original hearing that there was some form of “services rendered” arrangement relative to the tenancy.
8. The LTB may grant a request to review on the basis of the availability of new evidence, but only where that evidence was not available at the time of the initial hearing, and where the new evidence is potentially determinative of a key issue. Parties are expected to make every effort to produce all relevant evidence in support of their positions in the original hearing. A request to review on the basis of new evidence will be dismissed, unless the LTB is satisfied that the new evidence is material to the issues in dispute, may change the outcome **and** could not have been produced at the original hearing: *LTB Interpretation Guideline #8: Review of an Order*.
9. This means that even if there is material evidence that may change the outcome that was not presented at the original hearing, the request to review ought to be denied if the evidence at issue could have been produced. A request to review is not an opportunity for a party to present a better case if the outcome of a proceeding is not in their favour.
10. CW said that even though the text messages existed before the prior hearing, she did not know about them, and FL was not present at the hearing. She submitted that the Landlord did not know the Tenant would take the position he did, and so did not know that this evidence would be necessary.
11. I do not accept that this means the text messages at issue could not have been produced at the original hearing. Even if CL did not know the Tenant would take the position he did at the original hearing, she obviously knew precisely the position the Tenant took after the Tenant presented his evidence. Even if she did not know the text messages existed, she

did know that the Tenant's evidence was that he made the agreement at issue directly with FL. She therefore knew or ought to have known, at least, that FL's oral evidence would be necessary.

12. This was the Landlord's application, and the Landlord bears the burden of proof on a balance of probabilities. To prove something on a balance of probabilities, one must present sufficient clear, convincing, and cogent evidence to establish it is more likely than not that something happened or a fact is true: *FH v. McDougall*, 2008 SCC 53 (CanLII), paras 44-46.
13. Although the Member accepted the Tenant's evidence that he paid the \$8,700.00 payment at the outset of the tenancy, the Member did not make any determination as to the value of any services rendered, what, if any, amount was therefore to be applied to the amount outstanding, or what, if any, rent arrears are owed.
14. The Member found that the Landlord did not present sufficient evidence to prove its case, and on the evidence before the Member, this finding was reasonable.
15. If the Landlord was surprised by the Tenant's position, FL could have been called to attend the hearing, or the Landlord could have requested an adjournment if FL was not available on the hearing date.
16. In my view, this is a situation where the Landlord failed to discharge its burden of proof on the first attempt, and is seeking a rehearing for the opportunity to present a better case. This is not the purpose of a request to review. The text messages could have been produced at the original hearing, and the availability of those messages now does not warrant a request to review being granted.
17. On the basis of the submissions made in the request, I am not satisfied that there is a serious error in the order or that a serious error occurred in the proceedings.

It is ordered that:

1. The request to review order LTB-L-072146-25 issued on December 22, 2025 is denied. The order is confirmed and remains unchanged.

March 25, 2026
Date Issued

Mark Melchers
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.