



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

Citation: 2755 Jane Street Inc. v Mitchell, 2026 ONLTB 25373

Date: 2026-03-25

File Number: LTB-L-086945-25-RV

In the matter of: 1003, 2755 JANE ST
NORTH YORK ON M3N2H6

Between: 2755 Jane Street Inc. Landlord

And

Kellyann Mitchell Tenants
Renee Mitchell

Review Order

2755 Jane Street Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Kellyann Mitchell and Renee Mitchell (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was resolved by order LTB-L-086945-25 issued on February 4, 2026. The Tenants were not present or represented at the original hearing on January 15, 2026.

On February 15, 2026, the Tenants requested a review of the order and that the order be stayed until the request to review the order is resolved.

On February 17, 2026 interim order LTB-L-086945-25-RV-IN was issued, staying the order issued on February 4, 2026.

This request to review was heard by videoconference on March 23, 2026.

The Landlord's legal representative, Eric Steiman, and the Tenants attended the hearing.

Determinations:

1. In the request to review, the Tenants claim they were not reasonably able to participate in the January 15, 2026 hearing.
2. Both of the Tenants gave evidence at the review hearing. One of the Tenants, Renee Mitchell ('RM'), suffers from epilepsy. The night before the January 15, 2026 hearing, at about 3:00 a.m., RM suffered an epileptic seizure.
3. The seizure lasted only a few seconds, and RM went back to sleep. The Tenants did not call an ambulance or go to a hospital. The evidence was that after a seizure, RM usually

has headaches and stomach pain. The morning of the hearing, RM called out to the other Tenant, Kellyann Mitchell ('KM'), said she was not feeling well, could not get up, and needed to sleep.

4. RM's child is 9 years old, is autistic, and lives in the unit with the Tenants. KM and RM are sisters.
5. The morning of the hearing, RM's child was upset that her mother had a seizure, and missed the bus to school. As a result, KM had to take the child to school using public transit. KM said she returned home that morning shortly before 9:00 a.m.
6. This matter was scheduled in a hearing block that was to begin at 9:00 a.m. According to the February 4, 2026 order, the matter was not called forward until 10:20 a.m.
7. KM said that when she got home, even though it was before 9:00 a.m., she did not call in or connect to the hearing because she thought she had "missed [her] chance". When I asked why she thought she had missed her chance even though she was home before the start time for the hearing block, KM said she was not thinking straight.
8. The LTB will refuse to grant a request to review where the requestor's absence was the result of negligence, or if there was no reasonable explanation for the failure to attend. Lack of reasonable diligence in dealing with LTB proceedings is also a reason not to grant a rehearing to avoid a waste of resources: *Ali v. Capreit*, 2025 ONSC 103 (CanLII), para 12; *Gusain v. Arnold*, 2023 ONSC 3765 (CanLII), para 48; *Q Res IV Operating GP Inc. v. Berezovs'ka*, 2017 ONSC 5541 (CanLII), para 8.
9. At the same time, the right to be reasonably able to participate in a proceeding must be interpreted broadly because it is a matter of natural justice: *King-Winton v. Doverhold Investments Ltd.*, 2008 CanLII 60708 (ONSC Div. Ct.); *Ali v. Capreit*, 2025 ONSC 103 (CanLII), para 14.
10. In *Ali v. Capreit*, *supra*, the Court commented on the "generous" interpretation of the right to be reasonably able to participate in a proceeding, articulated in *King-Winton v. Doverhold*, *supra*, and followed in a number of subsequent cases: "Given the inherent vulnerability of residential tenants and the purpose of the [RTA](#) (see s. 1), this generous interpretation makes sense": *Ali v. Capreit*, 2025 ONSC 103 (CanLII), para 14.
11. I recognize the broad interpretation that must be applied to the right to be reasonably able to participate in LTB proceedings, but in this case, I find that there is not a reasonable explanation for why KM did not attend the hearing. She was home before 9:00 a.m. and could have connected to the hearing. I understand that her sister having had a seizure would be distressing for KM, the morning of the hearing was stressful for her, and that KM may not have wanted to attend the hearing. The situation may have even warranted an adjournment if one had been requested, but KM, without reasonable explanation, decided not to connect to the hearing at all.
12. When a person makes a decision not to attend a hearing without a reasonable explanation, the person is not then entitled to claim that they were not reasonably able to participate in the proceeding and to demand that the LTB expend the resources to hear the matter a second time.

13. On the basis of the submissions made in the request, I am not satisfied that the Tenants were not reasonably able to participate in the proceeding.
14. ES requested an order that the stay on the February 4, 2026 order be lifted at the end of April 2026.
15. The Tenants requested that the stay not be lifted for two months. As noted above, RM suffers from epilepsy, and her 9-year-old child is autistic. The Tenants said they do not presently have the money to secure other accommodation quickly.
16. In my view, the Tenants' request for a delay of 2 months before the stay is lifted is reasonable. This will give them a reasonable amount of time to find other accommodation, and/or to seek out community or government resources that may be able to assist in salvaging their current tenancy or securing new accommodation. The stay will be lifted on May 31, 2026.

It is ordered that:

1. The request to review order LTB-L-086945-25 issued on February 4, 2026 is denied. The order is confirmed and remains unchanged.
2. The interim order issued on February 17, 2026 is cancelled. The stay of order LTB-L-086945-25 is lifted on May 31, 2026.

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.