



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

Citation: 2858866 Ontario Limited v Theocharides, 2026 ONLTB 24874

Date: 2026-03-31

File Number: LTB-L-023983-25-RV

In the matter of: 104, 1827 Victoria Park
Toronto Ontario M1R1T3

Between: 2858866 Ontario Limited Landlord

And

Madonna Theocharides Tenant

And

Cody Theocharides Unauthorized Occupant

Review Order

2858866 Ontario Limited (the 'Landlord') applied for an order to terminate the tenancy of Madonna Theocharides (the 'Tenant') and evict Cody Theocharides (the 'Unauthorized Occupant') because the Tenant transferred occupancy of the rental unit to the Unauthorized Occupant without the Landlord's consent. The Landlord also applied for compensation by the unauthorized Occupant for the use of the rental unit.

This application was resolved by order LTB-L-023983-25 issued on September 16, 2025 (the 'Order').

On October 7, 2025, the Landlord requested a review of the order.

On October 9, 2025 interim order LTB-L-023983-25-RV-IN was issued, staying the order issued on October 9, 2025 and directing the request to a review hearing.

This Landlord's request to review was heard by videoconference on February 19, 2026. The Landlord's agent, Kevin Malek, and the Unauthorized Occupant attended the hearing. The Landlord was represented by Carrie Aylwin. The Tenant was represented by Janet van Oordt.

Determinations:

1. Order LTB-L-023983-25 issued on September 16, 2025 dismissed the Landlord's A2 application pursuant to s. 104(4)(b) of the *Residential Tenancies Act, 2006* (the 'Act'). The presiding Member found that the application was filed more than 60 days after the Landlord discovered the unauthorized occupancy. The order states *inter alia*:

16. The Tenant's direct testimony was that the superintendent Don Chaytor altered the original lease to add him as a tenant, and the superintendent's sworn affidavit swears he did not. Don Chaytor, the superintendent, was not present at the hearing to give evidence or dispute the testimony of the current Occupant.
 17. Despite the validity of the altered leases, I find that the Landlord became aware of CT as a tenant of the unit when they purchased the property in 2021 and were provided the Rental Information Form on November 1, 2021, which in its own words states "In order to verify the rental information provided by Stardel Rentals Inc., please complete the following information".
 18. The authenticity of this document was not challenged by the Landlord, nor did the Landlord provide their own copy of this form.
 19. On November 1, 2021, the Landlord was provided the Rental Information Form which listed CT as a Tenant of the rental unit. At no time after receiving this form and comparing it with the information provided by the former landlord, did they question whether or not CT was a Tenant of the unit. Therefore, I find that the Landlord became aware of CT being a Tenant on November 1, 2021 and this application was not filed within 60 days of the Landlord becoming aware.
 20. Although this order does not specifically address each piece of evidence individually or reference all of the testimony, I have considered all of the evidence and oral testimony when making my determinations. No further reasons will issue.
2. The Landlord argues that they were denied procedural fairness:
22. In addition to the reasons for review stated above, at no point during the hearing did the Member indicate that she was considering the "Rental Information Form" as dispositive evidence on the limitation issue. The Member did not provide an opportunity for reply submissions from the Landlord on whether this form alone could start the 60-day limitation period under section 104(4)(b).
 23. The Landlord was thereby denied a fair opportunity to address that the Member was considering this a significant document on the limitation issue. In addition to the reasons for review stated herein, the Member's reliance on it for dismissing the application also constitutes a breach of procedural fairness and natural justice.
3. I disagree with the Landlord. The Landlord was represented and had notice of the Unauthorized Occupant's argument that they were a tenant. The Board routinely inquires about the date when a landlord became aware of the allegedly unauthorized occupancy. The Landlord provided no legal authority for the proposition that a presiding adjudicator must flag a particular piece of evidence if they are to give it significant weight or even if they are to find it "dispositive". The Rental Information Form was included in the Tenant's 22-page original document package 6145759 on page 5. I am not persuaded that the Landlord was denied procedural fairness when the presiding adjudicator gave significant weight to a document that was disclosed to the Landlord in advance of the hearing in support of an argument that the Landlord was always aware of. Further, I am not

persuaded that the presiding adjudicator considered this piece of evidence to be dispositive.

4. Based on the submissions made in the Landlord's request to review, I do not find that the Landlord was denied procedural fairness.
5. The Landlord also argues that it only became aware of the Occupant's claim that they are a tenant after the Tenant passed away on or about February 13, 2025. The request claims that the Order contains several serious errors, including:
 10. The Member's finding that the Landlord was time-barred based on the Landlord receiving and reviewing this rental information form in 2021 is a clear error of law and a misapplication of section 104(4)(b) and an error in fact whereas there was no evidence before the Board that the Landlord received and reviewed the form that Cody Theocharides testified that he and the Deceased Tenant filled out. Cody Theocharides only asserted that he was a co-tenant following the death of the bona fide tenant, which is the correct triggering time for the 60-day limitation period to start to run. Further, this form, even if provided to the Landlord in 2021, could not establish Mr. Theocharides as a tenant. The lease agreement was the only document that could do so.
 18. The Order further states that the authenticity of the rental information form "was not challenged by the Landlord." Respectfully, this finding misapprehends the hearing record. During cross examination, the Landlord's representative asked the Tenant "can you confirm that all of the information in the rental information form was written by you or your mother" to which the Tenant stated that yes it was. This directly challenged the reliability and authenticity of the information in the form as proof of Cody Theocharides as a co-tenant. The form itself, even if it was provided to the superintendent before the current Landlord took over the building, could not establish Cody Theocharides as a bona fide tenant.
 19. The signed lease, prima facie, carries more weight than this form. In addition, the lease including the authenticity of the alterations thereto was directly examined by the Landlord's representative during the hearing and was a key evidentiary component.
 21. Cody Theocharides did not describe in his testimony when, or by what means the form was transmitted to the Superintendent. There was therefore no evidentiary basis for the Member to find that the Landlord had been "provided" the form in 2021, or that the Landlord's awareness of Cody Theocharides presence as a bona fide "tenant" dated from that time. The testimony of Kevin Malek that the original lease was the only version the landlord had in its records further supports that the Member erred in her finding that the Landlord knew by virtue of the rental information form of his tenancy in 2021.
6. The Landlord also argues that the Board should have given different weight to different evidence and that the Landlord's evidence including leases, notices and sworn statements should have been given more weight.

7. 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.
8. In my view, the Landlord's request is fundamentally simply an attempt to re-argue the application.
9. The Landlord disputes the weight the Member gave to the evidence adduced at the hearing.
10. LTB Interpretation Guideline 8: "Review of an Order" is not binding on me but is persuasive and is consistent with applicable laws. It reads, inter alia:

"A review is not an appeal or an opportunity to change the way a case was presented.

The purpose of the review process is not to provide parties with an opportunity of presenting a better or different case than they did at first instance. There is nothing in the record or in the request for review to support a determination that the Member applied improper principles in assessing the evidence introduced or that there was insufficient evidence before the Board to support its conclusions. I would not interfere with the assessment of the evidence by the Member of first instance, who had the opportunity of observing the witnesses and of hearing the evidence in its totality. [TSL-51694-14-IN-RV \(Re\)](#), 2015 CanLII 23959 (ON LTB) at para 10.

See also [TEL-25281-12-RV \(Re\)](#), 2012 CanLII 45139 (ON LTB) and [TEL-34298-13-RV \(Re\)](#), 2013 CanLII 50425 (ON LTB).

There is no right to review an order."

11. The same guideline sets out what may constitute a serious error:

"Serious error includes:

- An error of jurisdiction. For example the order relies on the wrong section of the RTA or exceeds the LTB's powers. This issue need not have been raised in the original hearing;
- A procedural error which raises issues of natural justice;
- An unreasonable finding of fact on a material issue which would potentially change the result of the order;
- New evidence which was unavailable at the time of the hearing and which is potentially determinative of one or more central issues in dispute;
- An error in law. The LTB will not exercise its discretion to review an order interpreting the RTA unless the interpretation conflicts with a binding decision of the Courts or is clearly wrong and unreasonable; and ,
- An unreasonable exercise of discretion which results in an order outside the usual range of remedies or results and where there are no reasons explaining the result."

12. It explains what may constitute an “Error of fact”: “The original hearing Member's findings of fact are entitled to considerable deference. A request will not be granted simply because the reviewing adjudicator might have come to a different conclusion about the evidence. Even where it finds a factual error the LTB may not exercise its discretion to review if the error is trivial, does not relate to a material issue in dispute or would not change the result.”
13. It provides the following an explanation under the heading of “unreasonable exercise of discretion”: “Orders granting relief from eviction (RTA s. 83(1)) or awarding specific remedies involve an exercise of the original hearing Member's discretion and are entitled to deference. The LTB will not exercise its discretion to review these types of decisions where the result is within the range of reasonable, acceptable outcomes. [TSL-62420-15-RV \(Re\)](#), 2015 CanLII 67891(ON LTB).”
14. The Landlord provided no legal authority for their arguments and didn't rely on any precedent, whether binding or otherwise.
15. The Landlord asserts an error of fact. The Landlord's position is that the Member was wrong to find that the Landlord became aware of the occupant's unauthorized occupancy more than 60 days before the application was filed.
16. The Landlord argues that the presiding Member should not have found that Landlord became aware of the occupancy as per s. 104(1)(b) when the Unauthorized Occupant allegedly gave the Rental Information Form to one of the Landlord's employees. There is no dispute that the Unauthorized Occupant lived in the rental unit at the time but the Landlord's position is that he was merely an occupant while the Tenant was alive and well. He only became an unauthorized occupant after the Tenant passed away and this is when the Landlord became aware of the issue in accordance with s. 104(1)(b).
17. According to the Landlord, the Unauthorized Occupant's evidence did not establish the Landlord's knowledge. It was filled out by the Tenant/ Unauthorized Occupant and it is unclear how or when it may have been received by the Landlord. Even if it were received, it should not have been more persuasive than the lease. The Landlord's evidence included a lease signed by both parties and the Unauthorized Occupant's leases were unsigned and possibly altered.
18. The Landlord argues that the presiding member misapprehended the evidentiary record. They did not properly assess evidence and did not consider best evidence available.
19. The Unauthorized Occupant argues that the order does not contain a serious error.
20. I have reviewed the record, and I do not find that the error contains a serious error on the basis of the Landlord's submissions.
21. The Member did not simply rely on the Information Form and disregard all evidence. The order clearly addresses most, if not all, the evidence adduced at the hearing. The Member was in the best position to assess credibility and give weight to the evidence. They are entitled to considerable deference.
22. The Member considered the Landlord's evidence including testimony, Landlord's version of the lease (paragraph 3), what the Landlord described as altered leases (paragraph 5), affidavit (paragraph 6) and other documents (paragraph 7).

23. The Member considered the Unauthorized Occupant's evidence including testimony, the Rental Information Form (paragraph 10) and the fact that the Unauthorized Occupant paid rent directly to the Landlord as early as in 2022 (paragraph 11). I note that paying rent in consideration of occupying a rental unit is consistent with the definition of a 'tenant' in s. 2(1) of the Act.
24. The Member did not explicitly address every single piece of evidence in her order and was under no obligation to do so. Paragraph 20 of the Order confirms that she considered evidence adduced at the hearing even if it wasn't specifically addressed in the Order.
25. The Member explained why they preferred the Unauthorized Occupant's direct testimony over the Landlord's sworn statement. The Member explained why she gave weight to the Rental Information Form and how it relates to the legal test in s. 104(1)(b). The Landlord did not lead evidence that no such form was ever provided by the Landlord or that a different form was received by the Landlord. The Unauthorized Occupant's version of that form was the only one adduced at the hearing. I am not persuaded that it is an error for the Board to find that a form that the Landlord apparently created and the Unauthorized Occupant filled out, can support a finding of fact that the Landlord became aware of the occupancy within the meaning of 104(1)(b) of the Act more than 60 days before the application was filed even when a landlord presents evidence to support the opposite conclusion.
26. I find that the Member applied the correct legal framework. I do not find that they incorrectly applied s. 104(1)(b) of the Act. The presiding member provided sufficient and persuasive reasons to explain her findings and determinations.
27. The review process is not an opportunity to re-argue the application. It is possible that a different determination could have been made based on the totality of the record. The Landlord's evidence could have been given more weight, and the Unauthorized Occupant's evidence may have been given less weight. A different adjudicator may have come to a different conclusion. The Landlord may have presented their case better, conducted more impactful cross-examination, or called additional witnesses with direct knowledge of the events in 2021 and 2022. I am not satisfied that the Landlord established a serious error that should be reviewed.
28. The Landlord's request to review is denied.

It is ordered that:

1. The request to review order LTB-L-023983-25 issued on September 16, 2025 is denied. The order is confirmed and remains unchanged.

March 31, 2026
Date Issued

Vladimir Nikitin
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.