



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

Citation: Clarke v Stingray holding, 2026 ONLTB 26760

Date: 2026-04-02

File Number: LTB-L-079448-25-RV

LTB-T-057872-25-RV

LTB-T-056348-25-RV

In the matter of: 4, 697 QUEENS AVE
LONDON ON N5W3H4

Between: Raymond Clarke Tenant

And

Stingray holding Landlord

Review Order

Stingray Holdings LTD. (the 'Landlord') applied for an order to terminate the tenancy and evict Raymond Clarke (the 'Tenant') because of rent arrears. The Tenant applied for orders determining that the Landlord substantially interfered with his reasonable enjoyment and did not meet its maintenance obligations.

The applications were resolved by order LTB-L-079448-25-RV / LTB-T-057872-25-RV / LTB-T-056348-25-RV, issued on January 5, 2026.

On January 6, 2026, the Tenant requested a review of the order.

The review was heard by videoconference on March 25, 2026.

The Landlord's representative Kaylin Mesic and the Tenant attended the hearing. Lindsay Posthumous and Tom Bird testified for the Landlord.

Reasons:

1. These three applications were heard together, and decided by a single order. The Member dismissed the Tenant's two applications. That decision is not under review.
2. The Landlord's application concerned rent arrears. The monthly rent was \$668.27. At the hearing, the only dispute between the parties was whether the Tenant had paid his rent in August and September, 2025. The Tenant said that he had paid \$668.87 on August 15, and \$668.87 on September 15. The Landlord denied receiving either payment.
3. The Member found in favour of the Landlord. He found that the Tenant had not made the two payments, and ordered him to pay. The Tenant requests a review of that decision.

4. For the following reasons, I find that the Member erred in the way that he assessed the evidence before him. I therefore granted the review and held a new hearing. At the new hearing, the Landlord adduced evidence sufficient to prove, on a balance of probabilities, that it did not receive the two payments. An order will therefore issue that is essentially the same as the previous order.

Review

5. The application was heard on December 1, 2025. At the hearing, the Tenant provided bank records indicating that he had sent rent payments to the Landlord in August and September by e-transfer. The Landlord provided a rent ledger, in which no payments were recorded for August and September. It also provided redacted bank statements. The unredacted parts of the bank statements did not show any received payments for the Tenant's August and September rent.

6. In his decision, the Member reasoned as follows:

Tenant asserted that all rent had been paid and filed banking records in support of that claim. However, the Tenant did not provide confirmation showing that the alleged Interac e-transfer payments were completed and received by the Landlord.

The Landlord filed a rent ledger and bank records demonstrating that the alleged August and September rent payments were not received.

After reviewing the evidence, I am not satisfied that the Tenant has paid the rent arrears.

7. I am satisfied that the Member erred in his approach to the evidence. The Divisional Court has explained how evidence of rent arrears is normally adduced:

Legally speaking, an allegation of arrears is an allegation of breach of the lease or breach of contract. It is axiomatic that the party who alleges a breach of contract bears the burden to prove that the counterparty committed the breach alleged. As it is difficult to prove a negative (i.e. non-payment of rent), normally someone with appropriate knowledge on behalf of the landlord will simply testify that no money was received. They will usually produce copies of contemporaneous books of account that show no receipts were recorded for specific dates when rent was due as some support for the oral evidence. While the ultimate persuasive burden never shifts, once a landlord denies receiving funds, the tenant will have an evidentiary burden or a chance to advance some evidence to positively prove that he or she paid rent. [...] If the tenant does not adduce evidence to counter or overcome the landlord's evidence, the landlord may or may not be found to have met her burden to prove the arrears on a balance of probabilities. (*Mauti v. Gibbs*, 2019 ONSC 3355 (CanLII) at para. 27)

8. In the present case, I have listened to the hearing recording. Neither party called any witnesses. The parties' documents were all admitted into evidence without having been identified, described, or explained by witnesses.

9. The Member did not explain how, in the absence of any witness testimony, the Landlord's rent ledger and bank records were sufficient to "demonstrate" that the two payments were not received. No witness testified that payments had not been received in August and September. No witness testified as to how the Landlord normally received and deposited rent payments. No witness confirmed that the redacted portions of the bank records did not contain rent payments. No witness explained how the ledger had been produced.
10. Instead, the Member placed the onus on the Tenant to prove the payments. He held that he was not satisfied that the payments had been made. This was a serious error. Pursuant to *Mauti*, the Member should instead have considered whether the Landlord's evidence was sufficient to prove, on a balance of probabilities, that the payments had not been made.
11. I therefore granted the review, and held a new hearing on the question of whether the August and September payments had been made.

New hearing

12. At the new hearing, the Landlord called two witnesses. Tom Bird is a principal of the Landlord. He testified that he normally processes rent payments. He did not receive any payments from the Tenant in August or September. The payments are always deposited in the same bank account. However, Mr. Bird also checked all the Landlord's other bank accounts several times each, and confirmed that August and September rent payments were not deposited into any of them.
13. Lindsay Posthumous is an employee of the Landlord. She testified that she and her husband process rent payments when Mr. Bird is away. They did not receive any payments from the Tenant in August or September either.
14. Ms. Posthumous also testified that the Landlord's bank account is not set up to automatically deposit e-transfers. Hence the Tenant's payments could not have been deposited without anyone noticing. Someone would have had to manually accept the transfers and enter a password.
15. The Landlord adduced redacted bank statements for August and September. Although no witness explained how they were redacted, all the amounts in the deposits column were unredacted. There was no deposits of \$668.87.
16. The Tenant testified that he sent the payments by e-transfer. He adduced confirmation emails showing both that the transfers had been sent to the Landlord's email address, and that they had been accepted by a recipient and deposited. He also adduced bank records showing that the transferred amounts had been deducted from his bank account.
17. I find both parties' testimony to be credible. The Tenant's testimony and confirmation emails are sufficient to show that he sent the payments. The Landlord's staff conducted a thorough investigation, which is sufficient to show that they did not receive the payments. The most likely explanations are either that there was a banking error, or that a third party intercepted the transfers.

18. I do not need to determine what actually happened to the Tenant's money. I encourage him to ask his bank to investigate in the hope that his money can be recovered. For the purpose of this proceeding, it is sufficient that the Landlord has proved, on a balance of probabilities, that it did not receive the payments. The Tenant therefore owes rent arrears for August and September.

Result

19. Aside from the two missing payments, the Tenant has been paying his rent. The parties agree that aside from the August and September rent, the only outstanding arrears are a small amount which arose because the rent increased to \$682.30 in January 2026. The Tenant also owes the Landlord its filing fee of \$186.00 for this application.
20. The exact amount owing is set out in Schedule 1. The amount also includes the rent for April, 2026, which came due after the hearing but before this order was issued. If the Tenant has already paid the rent for April, it should be applied against the amount owing.
21. The parties agree that the Tenant should have until April 15, 2026 to pay the arrears. An order will issue accordingly.

It is ordered that:

1. Order LTB-L-079448-25-RV / LTB-T-057872-25-RV / LTB-T-056348-25-RV, issued on January 5, 2026, is cancelled and replaced by this order.
2. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**

\$2,245.74 if the payment is made on or before April 15, 2026. See Schedule 1 for the calculation of the amount owing.
3. The Tenant may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenant has paid the full amount owing as ordered plus any additional rent that became due after April 15, 2026 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.
4. **If the Tenant does not pay the amount required to void this order the Tenant must move out of the rental unit on or before April 15, 2026.**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$766.17. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. The rent deposit and interest the Landlord owes on the rent deposit are deducted from the amount owing by the Tenant. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlord compensation of \$22.43 per day for the use of the unit starting March 26, 2026 until the date the Tenant moves out of the unit.

7. If the Tenant does not pay the Landlord the full amount owing on or before April 15, 2026, the Tenant will start to owe interest. This will be simple interest calculated from April 16, 2026 at 4.00% annually on the balance outstanding.
8. If the unit is not vacated on or before April 15, 2026, then starting April 16, 2026, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
9. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord on or after April 16, 2026.

April 2, 2026
Date Issued

Dale Whitmore
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.

In accordance with section 81 of the Act, the part of this order relating to the eviction expires on October 16, 2026 if the order has not been filed on or before this date with the Court Enforcement Office (Sheriff) that has territorial jurisdiction where the rental unit is located.

Schedule 1
SUMMARY OF CALCULATIONS

A. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before April 15, 2026

Rent Owing To April 30, 2026	\$6,070.55
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$4,010.81
Total the Tenant must pay to continue the tenancy	\$2,245.74

B. Amount the Tenant must pay if the tenancy is terminated

Rent Owing To Hearing Date	\$5,266.70
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$4,010.81
Less the amount of the last month's rent deposit	- \$600.00
Less the amount of the interest on the last month's rent deposit	- \$75.72
Total amount owing to the Landlord	\$766.17
Plus daily compensation owing for each day of occupation starting March 26, 2026	\$22.43 (per day)
**Ongoing daily compensation continues to accumulate until the total amount owing (excluding costs) is \$50,000.00.	