



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

Citation: Aquilina v Gray, 2026 ONLTB 29208

Date: 2026-04-10

File Number: LTB-L-072959-25-RV

In the matter of: 65 Chatsworth Dr
Toronto ON M4R1R6

Between: Paulline Aquilina Landlord

and

Lisa Gray Tenant

Review Order

Paulline Aquilina (the 'Landlord') applied for an order to terminate the tenancy and evict Lisa Gray (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes. **(L1 Application)**

The Landlord also applied for an order to terminate the tenancy and evict the Tenant because the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant.

The Landlord also applied for an order requiring the Tenant to pay the Landlord's reasonable out-of-pocket expenses that are the result of the Tenant's failure to pay utility costs they were required to pay under the terms of the tenancy agreement. **(L2 Application)**

This application was resolved by order LTB-L-072959-25 issued on March 6, 2026. The Landlord's Legal Representative, Eric Spalvieri, and the Tenant attended the hearing.

On April 7, 2026, the Tenant requested a review of the order.

A preliminary review of the review request was completed without a hearing.

Determinations:

1. The request for review alleges that the Tenant was not reasonably able to participate because the Tenant was ill at the time of the hearing and the presiding Member unreasonably denied the Tenant's request for an adjournment.

2. The presiding Member's decision to deny the adjournment request was not unreasonable.
3. Section 21 of the *Statutory Powers Procedure Act, 1990* (the 'SPPA') states that a hearing may be adjourned where it is shown to the satisfaction of the tribunal that an adjournment is required to permit an adequate hearing to be held. Interpretation Guideline 1 of the Board's Interpretation Guidelines states:

Parties should assume that the hearing will proceed on the date stated in the Notice of Hearing. This means that the parties should be prepared to present their evidence, call and question witnesses and make submissions.

...

Where the Member is satisfied that the party has received sufficient notice of the hearing and has been provided with an adequate opportunity to prepare their evidence and submissions, summons witnesses and obtain counsel ahead of the hearing date, an adjournment is not usually granted unless there are exceptional circumstances.

The specific factors the Member may consider in deciding whether to grant an adjournment include:

1. the reason for the adjournment and position of the parties;
 2. the issues in the application;
 3. any prejudice that may result from granting or denying the request;
 4. the history of the proceeding including other adjournments or rescheduling;
 5. the LTB's obligation to adopt the most expeditious method of determining the questions arising in a proceeding that affords to all persons directly affected by the proceeding an adequate opportunity to know the issues and be heard on the matter.
4. It is apparent from the final order that the presiding Member correctly exercised his jurisdiction under section 21 of the SPPA admitting and considering the parties' evidence and circumstances when denying the Tenant's adjournment request. The '**The Tenant's Adjournment Request is Denied**' section of the final order shows that the presiding Member considered the reason for the adjournment request, that the Tenant's alleged illness did not appear to impact her ability to make meaningful submissions and present evidence, and the prejudice to the Landlord in granting the adjournment request. Although another Board Member may have exercised their discretion differently, the presiding Member's decision is entitled to deference.
 5. I am also not satisfied that the Tenant was not reasonably able to participate in the hearing. Her assertion is grounded on the fact that the Member made adverse findings against the Tenant, and this must be because her illness impacted her ability to effectively state her case. The Divisional Court has held that procedural fairness is assessed on an objective standard. Despite the Landlord's assertions on mental capability on the date of the hearing, a person's internal thought process is not relevant to an issue before the Board.
 6. While the Tenant submitted a note from a doctor in support of her review request, the note is void of any detail. The Divisional Court has affirmed that even in the case where a party has provided a medical note to support their position that they were not able to

participate in the proceeding, the note must contain sufficient information for the tribunal to determine whether the party can participate¹. The note simply states that the Tenant cannot return to work but does not provide any information as to the condition or diagnosis and the effect of the condition or diagnosis on the Tenant's ability to participate. It is reasonable to expect that the note would, at a minimum, provide this information and the Tenant's note describes neither of these elements.

7. Additionally, the review submissions are internally inconsistent and therefore they have not made out that the Tenant was not reasonably able to participate. Based on the order, it is apparent that the Tenant was aware of the issues and fully participated, including giving evidence and submissions on key issues in dispute. There is no indication that the Tenant was not able to properly represent herself. The full participation renders any assertion that she was incapable not credible. The application record as set out in the order is not indicative of an individual that was not reasonably able to participate. Overall, it is evident that the parties were aware of the issues in dispute and had the opportunity to submit evidence and make submissions with respect to those issues. As such, I am not satisfied that the Tenant was not reasonably able to participate in the proceedings.
8. The balance of the review request seeks to make submissions and present evidence with respect to the condition of the rental unit. The Board's records do not reflect that the Tenant filed any issues she intended to raise under section 82 of the *Residential Tenancies Act, 2006* (the 'Act'), as required by Rule 19.4 of the Board's Rules of Procedure.
9. Rule 19.4 of the Board's Rules of Procedure provides that a tenant who wishes to raise issues under section 82 of the Act at a hearing must serve the Landlord and file with the Board a list of their issues as well as their supporting evidence at least seven days before the hearing. Rule 19.5 provides that a tenant who fails to comply with Rule 19.4 shall not be permitted to raise these issues at the hearing unless the Board is satisfied that they could not comply.
10. As the Tenant did not file section 82 issues as required by Rule 19.4, it was not an error for the Member not to consider issues regarding the condition of the rental unit. Additionally, it does not appear that the Tenant attempted to raise these issues at the hearing. A review is not an opportunity to change the way a case was presented or to present a better or different case than they did a first instance².
11. As a result, based on the submissions made in the request, I am not satisfied that the Tenant was not reasonably able to participate in the hearing or that a serious error occurred in the proceedings. Consequently, the request to review the order must be denied.

¹ *Wang v. Oloo*, 2023 ONSC 1028 CanLII (Div. Ct.)

² *TSL-51694-14-IN-RV (Re)*, 2015 CanLII 23959 (ON LTB) at para 10

It is ordered that:

1. The request to review order LTB-L-072959-25 issued on March 6, 2026 is denied. The order is confirmed and remains unchanged.

April 10, 2026
Date Issued

Candace Aboussafy
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.