



Order under Section 31 Residential Tenancies Act, 2006

Citation: Pietila v Community Living Hamilton, 2026 ONLTB 30391

Date: 2026-04-14

File Number: LTB-T-073353-24

In the matter of: Apt 704, 6 ACORN ST
HAMILTON ON L8L0E2

Between: Jonah Pietila Tenant
Janelle Pietila, Agent of the Tenant
David Pietila, Agent of the Tenant

And

Community Living Hamilton Landlord

Jonah Pietila ('the Tenant'), Janelle Pietila ('Agent of the Tenant') and David Pietila ('Agent of the Tenant') applied for an order determining that Community Living Hamilton (the 'Landlord'):

- substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenant or by a member of their household.

This application was heard by videoconference on October 30, 2025.

The Tenant's Agent, Janelle Pietila ('JP'), JP's legal representative, Shaun Harvey, the Landlord's agent Syliva D'intino, and the Landlord's legal representative, Jenna Bontorin, attended the hearing. The Landlord's witness, Vicki Querney, was also in attendance.

Determinations:

Preliminary Issue – Do the Tenant's Agents have Standing?

1. The Landlord's legal representative submitted that Janelle Pietila ("JP") and David Pietila ("DP") are the Tenant's parents and do not occupy the rental unit. It was further submitted that the Powers of Attorney relied upon by JP and DP had not been invoked on the basis of incapacity and that no Request to be a Litigation Guardian, as required under Rule A10 of the Landlord and Tenant Board Rules of Procedure ("the Rules"), had been filed in respect of the Tenant. On that basis, the Landlord submitted that JP and DP did not have standing and lacked authority to file the application before the Board.

2. It was undisputed that the rental unit is solely occupied by the Tenant and that the Tenant receives supports from the Landlord, a not-for-profit organization that provides services to people with intellectual and developmental disabilities.
3. It was also undisputed that the Tenant is a person with disabilities and is over the age of 18.
4. The Landlord's legal representative submitted that, under the law, the Tenant is presumed to have capacity to make decisions for himself. Reliance was placed on subsections 2(1) and 2(2) of the *Substitute Decisions Act, 1992*, S.O. 1992, c. 30 ("SDA"), which provide that a person who is eighteen years of age or more is presumed capable of entering into a contract, and a person who is sixteen years of age or more is presumed capable of giving or refusing consent in connection with personal care.
5. As further evidence of the Tenant's presumed capacity, the Landlord submitted a copy of the Tenant's Power of Attorney for Personal Care ("POAPC") executed by the Tenant. The Landlord's legal representative relied on paragraph 6 of that document, which provides that a physician must perform an assessment if the Tenant's capacity for personal care is in issue. No such assessment was provided by the Tenant's attorneys. Paragraph 6 states:

In the event that my capacity for personal care is in issue and an assessment of my capacity is required, I confirm that my family physician shall perform such assessment, or if he or she is unavailable, unwilling, or unable to do so then any other physician selected by my attorney appointed herein shall perform such assessment.

6. The legal representative for JP submitted that his retainer was limited to taking instructions from JP pursuant to the POA. He acknowledged that he had not spoken directly with the Tenant and had taken instructions solely from JP.
7. The legal representative for JP further submitted that, although the Tenant is deemed to have capacity in the strict legal sense, he has the emotional and intellectual functioning of an eight- to twelve-year-old child, which is why his parents habitually act on his behalf.
8. JP testified that the Tenant had no knowledge that an application was filed in his name before the Board. The Tenant was not consulted, and the application was filed solely by his parents acting as attorneys.
9. The legal representative for JP requested an adjournment to obtain written instructions from the Tenant and to seek the Tenant's consent for JP and DP to act as litigation guardians. Counsel submitted that the issue of standing was only raised at the hearing and that dismissing the application without an opportunity to address the issue would cause irreparable prejudice to the Tenant due to the limitation period.
10. The Landlord opposed the adjournment request. The Landlord's legal representative submitted that the issue of standing had been raised with the legal representative for JP well in advance of the hearing and that the legal representative had a professional

obligation to determine whether the Tenant lacked capacity such that the application could properly be brought on his behalf.

Analysis

11. For the reasons that follow, I find that JP and DP did not have standing to file the application. Accordingly, the Tenant's application must be dismissed.
12. The Board's Practice Direction on Litigation Guardians provides, in part, that a person who lacks legal capacity may participate in a proceeding through a litigation guardian. Legal incapacity arises only where a person is a minor or lacks the mental capacity to make decisions about the issues in the case. Everyone who is eighteen years of age or older is presumed to have legal capacity, including the capacity to file an application at the Board. Where a person seeks to act as a litigation guardian, Rule A10 requires that a Request to be a Litigation Guardian be filed together with appropriate supporting documentation.
13. The Tenant's POAPC was accompanied by an Affidavit of Execution dated October 2, 2022, in which the affiants swore or affirmed that they witnessed the execution of the POA and had no reason to believe that the Tenant was incapable of granting it.
14. The POAPC expressly requires that a physician perform an assessment if the Tenant's capacity for personal care is in issue. No such assessment was submitted. In the absence of evidence rebutting the presumption of capacity, the Tenant is deemed to have legal capacity and ought to have been involved in the decision to file the application.
15. In this case, the Tenant was not advised that an application was being filed on his behalf and had no knowledge or involvement in the proceeding. JP and DP did not file a Request to be a Litigation Guardian and therefore did not have authority to commence the application on the Tenant's behalf.
16. The legal representative for JP has been involved in this matter since the application was filed on September 9, 2024, and acknowledged that standing is a recurring issue in cases of this nature. I find that the issue was known well in advance of the hearing and that there was ample opportunity to address it prior to the hearing date.
17. An adjournment to obtain instructions after the fact does not remedy the fundamental deficiency in this case. The application was filed without the Tenant's knowledge and without legal authority. An adjournment would not cure that defect.
18. For these reasons, I find that JP and DP lacked legal authority to act as litigation guardians and therefore did not have standing to file the application. The application must be dismissed.

It is ordered that:

1. The Tenant's application is dismissed.

April 14, 2026
Date Issued

Melissa Anjema
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.