



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

File Number: LTB-L-060621-25-RV

In the matter of: 863 RITSON RD S
OSHAWA ON L1H5L5

Between: Shane Dulall Landlord

And

Robert Gaudet Tenant

Review Order

Shane Dulall (the 'Landlord') applied for an order to terminate the tenancy and evict Robert Gaudet (the 'Tenant') because:

- The Tenant did not pay the rent that the Tenant owes (L1 application); and
- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has willfully or negligently caused damage to the premises. (L2 application).

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

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.

This application was resolved by order LTB-L-060621-25 issued on December 8, 2025. A Hearing of the Landlord's application was heard on December 2, 2025, and only the Landlord and Landlord's Legal Representative, Jimmy Gangadin, attended the hearing.

On March 12, 2026, the Tenant requested a review of the order and that the order be stayed until the request to review the order is resolved.

On March 13, 2026, interim order LTB-L-060621-25-RV-IN was issued, staying the order issued on December 8, 2025

This application was heard by videoconference on April 14, 2026.

The Landlord, the Landlord's Legal Representative, Jimmy Gangadin, and the Tenant attended the hearing.

Determinations:

The Review Request:

1. In the review request, the Tenant stated that he was not reasonable able to participate at the December 2, 2025, because he did not receive the Notice of Hearing served by the Board.
2. On the basis of the submissions made in the request, I am not satisfied that the Tenant was not reasonably able to participate in the proceeding on December 2, 2025.
3. The Board record confirms that the Notice of Hearing was mailed to the Tenant on October 29, 2025, and was not returned as undeliverable.
4. The Tenant testified that he did not check his mailbox very often and did not receive the Notice of Hearing package from the Board. He stated that he only became aware of the proceeding when the Sheriff executed the eviction on March 6, 2026. The Tenant further testified that he received a package from the Landlord's Legal Representative but was not sure which hearing or which Board file it related to and therefore did not attend the hearing on December 2, 2025.
5. The Landlord's Legal Representative opposed the request. He submitted that on November 10, 2025, he personally served the Notice of Hearing package together with the L1/L9 update sheet for the L1 application. However, the package was returned by the Tenant on November 25, 2025. The Landlord's Legal Representative submitted that the Tenant failed to exercise due diligence by checking his mail and reviewing important legal documents. Relying on *Q Res IV Operating GP Inc. v. Berezovs'ka, 2017 ONSC 5541*, the Landlord's Legal Representative argued that the Tenant's lack of diligence is not a proper basis to grant a review of the order dated September 29, 2025.
6. *Q Res IV Operating GP Inc. v. Berezovs'ka, 2017 ONSC 5541 (Div. Ct.) (CanLII)* [*Berezovs'ka*]. In that decision, the Divisional Court ruled, at paragraph 8:

Lack of due diligence in dealing with court proceedings is a reason for refusing to set aside an order where a party has failed to appear. In other words, it was not an error in law for the Review Board to find that lack of diligence constituted a reason not to grant the landlord a rehearing.

7. On the evidence before me, I find that the Tenant took no reasonable steps to collect or check his mailbox. There is no evidence that the unit mailbox was inaccessible, that the lock was missing, or that there were any other issues with the mailbox. When the Tenant received the hearing package from the Landlord's Legal Representative on November 10, 2025, he failed to review it, even though it contained his name, the Board file number, and the rental unit address, and he returned it to the Landlord's Legal Representative's office on November 25, 2025. In these circumstances, I find that the Tenant did not act with appropriate diligence and has not shown that he was not reasonably able to participate in the hearing on December 2, 2025.

8. Therefore, I find that the Tenant has not demonstrated that he was not reasonably able to participate in the December 2, 2025, hearing. Their absence is attributable to a lack of due diligence, and the request to review is therefore denied.
9. This order contains all of the reasons for the decision. No further reasons will be issued.

It is ordered that:

1. The request to review order LTB-L-060621-25 issued on December 8, 2025, is denied. The order is confirmed and remains unchanged.
2. The interim order issued on March 13, 2026, is cancelled. The stay of order LTB-L-060621-25 is lifted immediately.

April 27, 2026
Date Issued

Joy Xiao
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.