



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

Citation: Podgaets v Zhang, 2026 ONLTB 33802

Date: 2026-05-01

File Number: LTB-T-064890-22-RV

File Number: LTB-L-010359-23-RV

In the matter of: 160 COLBORNE AVE
RICHMOND HILL ON L4C 2K1

Between: Ruslan Podgaets Tenant

And

Sen Zhang
Jing Jia Landlords

Review Order

Ruslan Podgaets (the 'Tenant') applied for an order determining that Sen Zhang and Jing Jia (the 'Landlords'):

- substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenant or by a member of their household.
- withheld or interfered with their vital services or care services and meals in a care home.

The Tenant also applied for an order determining that the Landlords failed to meet the Landlord's maintenance obligations under the *Residential Tenancies Act, 2006* (the 'Act') or failed to comply with health, safety, housing or maintenance standards.

The Landlords applied for an order requiring the Tenant to pay the rent and daily compensation that the Former Tenant owes.

The Landlords also applied for an order requiring the Tenant to pay the Landlords' reasonable out-of-pocket costs 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.

The Landlords also applied for an order requiring the Tenant to pay the Landlords' reasonable out-of-pocket costs that the Landlords incurred or will incur to repair or replace undue damage to property.

These applications were heard together and resolved by order LTB-T-064890-22 and LTB-L-010359-23 issued on March 6, 2026.

On March 6, 2026, the Landlords requested a review of the order and that the order be stayed until the request to review the order is resolved.

On March 10, 2026, the Board granted interim order LTB-T-064890-22-RV-IN and LTB-L-010359-23-RV-IN staying the order issued on March 6, 2026 and directing a hearing of the Landlord's request for review.

The request for review was heard in videoconference room 149 on April 23, 2026.

The Landlord Sen Zhang, the Landlords' legal representative Barrington Lue Sang, the Tenant and his legal representative Shaun D. Harvey attended the hearing.

Determinations:

1. The Landlords submit the order under review contains a serious error because it found that the Landlords are holding a rent deposit which the Board credited towards amounts owing by the Tenant, together with interest owing on that deposit pursuant to subsection 106(6) of the *Residential Tenancies Act, 2006* (the 'Act').
2. The Board's Interpretation Guideline 8 *Review of an Order* dated December 15, 2018 explains that findings of fact will amount to a serious error where they are unreasonable and have the potential to change the result of the order. This Guideline is not binding on me but I accept it as the correct statement of the well-established common law rule that findings of fact will not be disturbed unless they reveal a palpable and overriding error. An error is palpable if it is obviously wrong, unreasonable or unsupported by the evidence. An error is overriding where it affects the outcome of the case because it relates to the core of the dispute.
3. The Board's findings of fact in respect of the rent deposit are based on information disclosed by the Landlords in their application. The Landlords were unable to point to anything on the evidentiary record, or in their pleadings, that might suggest this information was amended, updated, revised, or otherwise supplanted by other evidence presented at the hearing.
4. At the review hearing, the Landlords relied on an email of November 29, 2022 written on behalf of the Tenants that says:

Greetings,

Please be advised that my client will be vacating the rental unit located at 160 Colborne Avenue, Richmond Hill as of December 10th, 2022.

Please use his last month rent deposit to cover November rent.

5. The Landlords could not identify any portion of the hearing recording showing this document was tendered into evidence or that any witness explained its import. The Landlords' legal representative who also represented the Landlords at the hearing had no recollection of that being done. The substance of the email, even if admitted for the truth of its contents, is insufficient to show that the Landlords were not in fact holding a rent deposit as of the time of the hearing as found by the Board. The Board's finding of fact in

respect of the deposit are supported by the pleadings and proceedings and do not disclose a serious error.

6. Based on the evidence and submissions presented in the request for review hearing, I am not satisfied that there is a serious error in the order.

It is ordered that:

1. The request to review order LTB-T-064890-22 and LTB-L-010359-23 issued on March 6 is denied. That order is confirmed and remain unchanged.
2. The interim order LTB-T-064890-22-RV-IN and LTB-L-010359-23-RV-IN issued on March 10, 2026 is cancelled. The stay of order LTB-T-064890-22 and LTB-L-010359-23 is lifted immediately.

May 1, 2026

Date Issued

Nersi Makki

Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.