



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

Citation: Capreit Limited Partnership v Sharpe, 2026 ONLTB 30661

Date: 2026-04-30

File Number: LTB-L-106967-25-RV

In the matter of: 15, 302 SILVERSTONE DR
TORONTO ON M9V 3J4

Between: Capreit Limited Partnership Landlord

and

Michael Sharpe Tenant

Review Order

Capreit Limited Partnership (the 'Landlord') applied for an order to terminate the tenancy and evict Michael Sharpe (the 'Tenant') because the Tenant failed to meet a condition specified in the order issued by the Board on December 10, 2025 with respect to application LTB-L-095126-25.

The application was resolved by order LTB-L-106967-25 issued on January 29, 2026.

On February 11, 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 February 12, 2026, the Board granted interim order LTB-L-106967-25-RV-IN, staying the order issued on January 29, 2026 and directing a hearing of the request for review.

The request to review was heard by videoconference on April 9, 2026.

The Tenant, his counsel Yodit Edemariam, and the Landlord's legal representative Geoff Paine attended the hearing.

Determinations:

1. The Landlord applied to terminate the tenancy based on notices of termination given under sections 61, 63 and 64 of the *Residential Tenancies Act, 2006* (the 'Act') claiming, among other things, that the Tenant substantially interfered with the reasonable enjoyment of the residential complex for all usual purposes by the Landlord or another

tenant, or substantially interfered with another lawful right, privilege or interest of the Landlord or of another tenant. The Landlord alleged that on four occasions between August 30, 2025 and October 18, 2025, the Tenant was observed screaming, yelling and swearing at other residents of the residential complex.

2. That notice of termination was given to the Tenant on October 23, 2025, meaning that it would be automatically voided pursuant to subsection 64(3) if the Tenant had stopped the conduct complained of within seven days.
3. On December 3, 2025, the parties appeared before the Board represented by licensees of the Law Society and requested a remedial order on consent that the Board granted on December 10, 2025:
 2. The Tenant shall comply with the following conditions for the duration of the tenancy:
 - a. * * *
 - b. The Tenant shall not make derogatory comments, yell, scream, or swear at persons within the residential complex.
4. The Landlord applied for termination under section 78, supported by a signed declaration, alleging the Tenant had breached the remedial order because he had aggressively screamed, yelled and swore at another resident of the residential complex on December 16, 2025.
5. The Board declined to grant the Landlord's application *ex parte* and directed a hearing on notice because it found the video recording relied on by the Landlord to be inconclusive. At the hearing, the Board heard testimony from the Landlord's witnesses and from the Tenant and reviewed the recording submitted by the Landlord.
6. The Tenant did not deny that he engaged in the conduct as found by the Board at paragraph 3 of its reasons. But he argued that he did not instigate the December 16, 2025 altercation and therefore caused no interference, or that any interference was not substantial. In the alternative, the Tenant requested relief based on those mitigating factors in combination with his other circumstances.
7. The Board disagreed and found that the Landlord had proven that the Tenant made derogatory comments, yelled, screamed and swore at Mr. Archer, another resident of the residential complex amounting to substantial interference. The Board rejected the Tenant's theory of provocation because it was unsubstantiated by evidence. The Board then considered both parties' circumstances and determined that relief from eviction would be unfair.
8. The Tenant submits the Board made errors of law, misapprehended the evidence, and the hearing was procedurally unfair. The Tenant also submits the Board's decision is not supported by legally sufficient reasons.

The Tenant was afforded an adequate opportunity to be heard.

9. The Tenant argues the Board's refusal to hear closing submissions breached natural justice because he was not afforded an adequate opportunity to be heard. He submits this contributed to the other errors he advances.
10. The Tenant acknowledges that the Board has broad authority to control its processes including the discretion to limit submissions. Rule 1.6(p) of the *Rules of Procedure* states:
 - 1.6 In order to provide the most expeditious and fair determination of the questions arising in any proceeding the LTB may:
 - * * *
 - p. limit the evidence or submissions on any issue where satisfied there has been full and fair disclosure of all relevant matters.
11. The Tenant is correct that the content of the duty of procedural fairness is contextual and is at the higher end of the spectrum where the vital right to housing is in jeopardy. Therefore, he says, whatever discretion may exist in Rule 1.6(p) should only be exercised where "it is clear that certain evidence and submissions are clearly irrelevant."
12. The Tenant was unable to identify the authority for this proposed standard or explain why Rule 1.6(p) should be restricted in this way. Clearly irrelevant evidence is categorically inadmissible and submissions that are clearly irrelevant are inherently unhelpful. There would be no need for a specific rule of procedure granting discretion to refuse it.
13. Rule 1.6(p) is promulgated under sections 25.0.1 and 25.1 of the *Statutory Powers Procedures Act* (the 'SPPA'). It reflects legislative authority to adopt procedures that resolve disputes expeditiously while affording parties an adequate opportunity to know the issues and be heard.¹ That duty is imposed by section 2 of the SPPA and section 183 of the Act in mandatory language. It is not optional.²
14. This discretion, like all discretion granted by law, must be exercised judicially—on consideration of relevant factors untainted by consideration of irrelevant factors. The Tenant submits that the Board refused closing submissions because the hearing had taken too long and because the adjudicator was very experienced, both of which were superfluous considerations.
15. The Tenant's recollection of what transpired at the hearing—as pleaded in his request for review and urged upon me by counsel during the review hearing—is not borne out by the hearing recording.
16. When the Tenant asked to make closing submissions, the Board enquired as to the topics. Tenant's counsel responded that the Tenant wished to address whether the evidence met the standard of proof and to present case law about the principles governing discretionary relief under section 83 of the Act.

¹ *Walters v. Centurion Property Associate Inc.*, 2024 ONSC 7093 at para. 27 (Div. Ct.); *Richmond v. Rodriguez*, 2025 ONSC 1666, para. 13 (Div. Ct.).

² *Residential Tenancies Act*, 2006, s. 183; *Statutory Powers Procedures Act*, s. 2; *Metropolitan Toronto Housing Authority v Godwin*, 2002 CanLII 41961 at para. 16 (C.A.); *Casiechitty v. Imran*, 2024 ONSC 6751 at para 8 (Div. Ct.).

17. The Board noted the hearing had been straightforward and had lasted about one hour. The Board ruled it would not require a review of the evidence because the adjudicator had just heard it and had it fresh in his mind, unlike in longer or multi-day hearings where a summary of the evidence and parties' positions might be helpful.
18. The adjudicator also stated that he was familiar with principles governing section 83 relief based on his experience and therefore did not require submissions on settled law. Counsel nonetheless reminded the Board that eviction is the remedy of last resort, a principle well known to the Board and reflected in the reasons for decision at paragraph 12. The Board limited submissions because the proposed submissions would not assist. That procedural choice is consonant with the duty to proceed fairly and expeditiously. It is entitled to deference.³
19. The Tenant also argues that because consideration of relief from eviction is mandatory, limiting submissions deprived him of a fair hearing because he was not allowed to present his request. It is axiomatic that a complete failure to receive evidence and submissions about relief from eviction is contrary to statute and a breach of natural justice.⁴ That is not what occurred. The Tenant's request for relief and the reasons advanced in support of it are clear from the evidence, the hearing recording and the reasons. Counsel specifically reiterated his request at the close of the hearing and the reasons demonstrate that the Board understood the basis of his request.
20. The Tenant also says that if he'd been allowed to make closing submissions, he would have presented social science evidence to demonstrate the effects of homelessness on vulnerable members of the community. He did not move to reopen his case or identify a witness he wished to have qualified to give opinion evidence. In any event, the Tenant led evidence on that subject. His doctor's note addressing the potential effects of homelessness on the Tenant was read into the record, and the Tenant amplified those concerns in his testimony. It is unclear how general social science evidence would have assisted further where the Board already had clinician evidence particular to this Tenant. The doctor's note also addressed prescribed medications as reflected in the Board's reasons. It did not state that the Tenant's illness caused or contributed to the breach.

The Board applied the correct test under section 78.

21. The Tenant does not dispute that during the incident of December 16, 2025 he screamed, yelled at, and swore at another resident adding "You know what, I'll use that fucking dog. I'll kill it and beat you to death with it." But the Tenant argues that is not enough to meet the test under section 78.
22. The Landlord carries the burden to prove the grounds of the application which are set out in subsection 78(1) of the Act:

³ *Wei v. Liu*, 2022 ONSC 3887 at para. 18 (Div. Ct.)

⁴ *Forest Hill Gates v. Wolch*, [2007] O.J. No. 1214 at para. 9 (Div. Ct.).

78(1) A landlord may, without notice to the tenant, apply to the Board for an order terminating a tenancy or evicting the tenant if the following criteria are satisfied:

1. The landlord previously applied to the Board for an order terminating the tenancy or evicting the tenant.
2. A settlement agreed to under section 194 or order made with respect to the previous application,
 - i. imposed conditions on the tenant that, if not met by the tenant, would give rise to the same grounds for terminating the tenancy as were claimed in the previous application, and
 - ii. provided that the landlord could apply under this section if the tenant did not meet one or more of the conditions described in subparagraph i.
3. The tenant has not met one or more of the conditions described in subparagraph 2 i.

[emphasis added]

23. The Tenant argues it was not enough to prove a breach of the remedial order. He submits the Landlord also had to prove that the breach amounted to one of the grounds of termination alleged in the original notices of termination. He says the Board erred by failing to make a finding on that element of the test, or if it did, by failing to give adequate reasons for rejecting his position that the breach was not a substantial interference within the meaning of section 64.
24. The Tenant relied on Board precedents holding that not all conditions imposed under section 204 of the Act are enforceable under section 78. For example in *TST-74595-16 & TSL-80284-16*,⁵ the Board found that termination under 78 was not available for failing to pay a filing fee because that was not a debt that could form “the same grounds for terminating the tenancy” as were claimed in the underlying rent-arrears application. The text-writer Jack Fleming, also without reference to binding authority, states:

The condition breached must be the same as could give rise to a ground raised in the original application. For example, a mediated agreement on an impairment of safety application might provide that a tenant shall not impair safety or substantially interfere with reasonable enjoyment for a period of time. If the breach of condition is substantial interference with reasonable enjoyment, not impairment of safety, it cannot form the basis for a s. 78 application.

On the same principle, if the original ground was substantial interference with reasonable enjoyment and the agreement was to not again substantially interfere with reasonable enjoyment, the breach must be

⁵ TST-74595-16 & TSL-80284-16, 2017 CanLII 60775 at para. 17 (Ont. LTB).

substantial enough to meet the requirements for eviction due to substantial interference with reasonable enjoyment.⁶

25. None of the cases relied on by the Tenant stands for the proposition that “would give rise to the same grounds” requires a Landlord enforcing a condition under section 78 to prove a particular ground of termination anew. The authorities confirm that recourse to section 78 is only available where the alleged breach itself constitutes a ground of termination that was pleaded in the underlying application. The provision prevents landlords from obtaining *ex parte* termination orders based on new grounds without giving fresh notices of termination. Read in context, the Board’s reasons are completely responsive to this argument. They show the Board found the conduct that constituted the breach rose to the level of substantial interference within the meaning of section 64 of the Act.

The Board’s findings are not based on misapprehension of the evidence.

26. The Tenant submits that the Board misapprehended the evidence in rejecting his theory of provocation. If it had assessed the evidence properly, the argument goes, the Board would have found the breach did not rise to substantial interference.

27. Specifically, the Tenant takes issue with the following finding:

6. It is the Tenant’s position that Mr. Archer started the confrontation because he reported illegal construction that Mr. Archer was doing in his unit to the City.

7. Mr. Zediu testified that the City has not issued any violations about the Tenant’s allegations.

8. There was no evidence apart from the Tenant’s testimony that Mr. Archer instigated a confrontation or that Mr. Archer has violated any municipal by-laws with unauthorized construction.

28. The Tenant argues the Board’s error of fact is of the sort that rises to an error of law in the sense described by the Supreme Court of Canada because the Board completely misapprehended the evidence or completely failed to take relevant and important evidence into account.⁷

29. The email in question was sent by the Tenant to municipal building inspectors at 4:16 pm on December 16, 2025, about six hours after his interaction with Mr. Archer. The argument that the Tenant presented at the hearing, and repeated on review, is that Mr. Archer had an animus against him because he had lodged a complaint about Mr. Archer’s alleged by-law infractions. If believed, this evidence would tend to show motive for instigating the altercation and therefore undermine Mr. Archer’s denial. It could also support the Tenant’s claim of diminished responsibility as a circumstance that might

⁶ Jack Felming, *Residential Tenancies in Ontario*, 4th ed. (Toronto: LexisNexis, 2022) at 845.

⁷ *Canada (Director of Investigation and Research, Competition Act) v. Southam Inc.*, 1997 CanLII 385 (SCC) at para. 41.

warrant further relief. On hearing the competing testimony of the witnesses, the Board preferred the evidence of Mr. Archer and rejected the Tenant's theory of provocation.

30. The Tenant's assertion of factual error is unfounded for several reasons. First, the confirmatory evidence the Tenant tendered was authored by himself. Therefore, the Board's observation that any evidence of a municipal complaint came only from the Tenant is correct.
31. Second, the Tenant specifically mentioned the confirmatory email in his oral testimony. The trier of fact free to accept some, none, or all of any testimony, and is presumed to have considered the entirety of the evidentiary record.⁸ Silence alone is insufficient to rebut that presumption because an administrative decision-maker has no obligation to mention every piece of evidence in its written reasons.
32. Last, prior consistent statements of this sort are generally of limited probative value because they add nothing to the testimony given at the hearing. In this case, the evidence tends to confirm, not rebut, fears of recent fabrication because the Tenant sent the email after he committed the breach. That evidence would be incapable of supporting the Tenant's theory of provocation or of undermining Mr. Archer's credibility. It had no bearing on the outcome.

The Board's reasons are legally sufficient.

33. The Tenant submits that the Board's reasons are insufficient to demonstrate that it applied the test under section 78 correctly, or why it rejected his theory of provocation or why it determined that a further remedial order would be unfair.
34. The duty to give reasons is an essential aspect of procedural fairness.⁹ Administrative tribunals do not have to consider and comment upon every issue raised by the parties in their reasons. However, where a decision-maker has a duty to provide reasons for their decision, the reasons must be read as a whole to determine whether they fulfil their intended function:
 1. To justify and explain the result;
 2. To explain to the unsuccessful party why they were unsuccessful;
 3. To allow informed consideration of any review or appeal; and
 4. To satisfy the public that justice has been done.¹⁰
35. Sufficiency of reasons is not assessed by length,¹¹ and the standard is not formulaic precision or perfection.¹² Reasons are to be read fairly and in the context of the

⁸ *Read v. Toronto Seniors Housing and Tribunals Ontario*, 2025 ONSC 6511 at para. 22 (Div. Ct.); *Lyle-Mayes v. Lazar*, 2026 ONSC 1659 at para. 28 (Div. Ct.).

⁹ *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 at para. 127.

¹⁰ *McAvany v. Kingston Home Base Non-Profit Housing*, 2025 ONSC 1164 (Div. Ct.) at paras. 24-25.

¹¹ *R. v. Lagace*, 2003 CanLII 30886 (Ont. C.A.) at para. 32.

¹² *Salih v. Lacroix*, 2024 ONSC 730 at para. 11 (Div. Ct.).

proceedings that gave rise to them, which includes the issues raised at the hearing, the evidence adduced and the arguments advanced.¹³ It includes the evidentiary record¹⁴ and implicit findings.¹⁵ This approach puts substance over form in situations where the basis for a decision by a specialized administrative actor is evident on the record, but not clearly expressed in written reasons.¹⁶

36. Paragraph 11 and 12 of the reasons for decision are completely responsive to all of the Tenant's concerns. The Board wrote:

11. The Tenant described the incident on December 16th as a simple argument that went too far and only lasted about three minutes. The parties agree there have been no further incidents since December 16th.

12. Eviction should not be taken lightly. It is understood that the Tenant has mental health issues and relief from eviction was granted with conditions that the behaviour stop. In this case, the Tenant consented to an order with conditions to preserve the tenancy. The Tenant not only breached the condition, but also uttered death threats to his neighbour and his dog. I find this behaviour exceeds the behaviour and the condition that would preserve the tenancy. No other resident of the residential complex should be subjected to this form of threat, especially when the order was issued less than a week before the threat.

37. Paragraph 12, read in context, shows why the Board found the conduct that occurred on December 16, 2025 substantially interfered with another resident's right to quiet enjoyment and substantially interfered with the Landlord's obligation to provide quiet enjoyment, which is among its lawful rights, interests and privileges as "no other resident of the residential complex should be subjected to this form of threat." This is a finding of mixed fact and law which is amply supportable on the evidentiary record and discloses no error. The Board is not required to recite legislation to show that it is familiar with its home statute.¹⁷

38. The reasons further show that the Board treated eviction as the remedy of last resort and remained alive to the Tenant's characteristics that are protected under the *Human Rights Code*. The Board considered the Tenant's submission that the breach was trivial. It also considered the Tenant's other circumstances including his health, his modest means, and his long tenure. The Board also considered the Landlord's circumstances and found that further relief would be unfair.

¹³ *Canada Forgings Inc. v. Atomic Energy of Canada Limited*, 2024 ONCA 677 at para. 22; *Law Society of Upper Canada v. Neinstein*, 2010 ONCA 193 at para 62.

¹⁴ *Boomer v. Arvane Farms Ltd.*, 2025 ONSC 1772 at para. 44 (Div. Ct.); *Govedaris v. McIlquham*, 2024 ONSC 5127 at para. 12 (Div. Ct.).

¹⁵ *Diamond Auto Collision Inc. v. The Economical Insurance Group*, 2007 ONCA 487 at para. 12.

¹⁶ *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 at para. 304.

¹⁷ *Dean v. McDonald*, 2026 ONSC 893 at para. 10 (Div. Ct.).

39. The disposition is informed in large part by the fact that the Tenant resumed the offending conduct within a week of undertaking to desist. That is not an error in principle but a finding of fact that properly informs the exercise of discretion under section 83.¹⁸ While a different adjudicator might have taken a different view of the evidence or exercised their discretion differently, the Board's exercise of discretion was rationally grounded in the evidentiary record and falls within the range of acceptable outcomes. It is entitled to deference.
40. Based on the submissions of the parties and my review of the proceedings, I am not satisfied that the decision contains a serious error or that a serious error occurred in the proceedings.

It is ordered that:

1. The request to review order LTB-L-106967-25 issued on January 29, 2026 is denied. The order is confirmed and remains unchanged.
2. Interim order LTB-L-106967-25-RV-IN issued on February 12, 2026 is cancelled. The stay of order LTB-L-106967-25 is lifted immediately.

April 30, 2026
Date Issued

Nersi Makki
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.

¹⁸ *Southridge Apartments v. Hastings*, [2007] O.J. No. 421 at paras. 16-17 (Div. Ct.).