



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

File Number: LTB-L-103957-25-RV

In the matter of: 3001, 224 KING ST W
TORONTO ON M5H0A6

Between: Nasir Mohammad Landlord
Shagufta Mohammad

And

Nabel Bendago Tenant

Review Order

Nasir Mohammad and Shagufta Mohammad (the 'Landlord') applied for an order to terminate the tenancy and evict Nabel Bendago (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-103957-25 issued on February 26, 2026. A hearing of the Landlord's L1 application was heard on February 18, 2026. Only the Landlord attended the hearing. The Tenant was not present or represented at the hearing.

On March 6, 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 9, 2026, interim order LTB-L-103957-25-RV-IN was issued, staying the order issued on February 26, 2026.

This application was heard by videoconference on April 23, 2026.

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

Determinations:

The Review Request:

1. The Tenant requests a review on the basis that he was not reasonably able to participate in the hearing because he did not receive the notice of hearing.
2. I do not accept the Tenant's evidence that he did not receive the notice of hearing. I find that evidence not credible when considered against the whole of the evidence before me.

3. The Board's records show that the notice of hearing was mailed to the Tenant on January 23, 2026. The package included the notice of hearing, the application, and the Zoom information sheet. The Tenant continued to reside at the rental unit. The Tenant also acknowledged that the rental unit has a mailbox in the building. Although the Tenant stated that he did not have his mailbox key after returning from overseas, he also testified that he obtained access to the mailbox near the end of January 2026.
4. The Tenant's evidence was that, when he accessed the mailbox, he found an envelope related to this matter but that the notice of hearing was not inside. I do not accept that explanation. I find it unlikely that the Tenant received part of the Board's mailed package but not the notice of hearing that was included in that package. The Tenant did not provide reliable evidence explaining why the notice of hearing would have been missing from the package.
5. I also find the Tenant's evidence inconsistent with his own email communications. The Tenant was aware by January 2026 that there was an application. In his communications with the Landlord's representative, he referred to the application and asked about its status. The Tenant also testified that he had access to the LTB portal system, although he stated that he could not see the application. Despite this, the Tenant did not contact the Board to ask whether a hearing had been scheduled. He did not provide evidence that he contacted the Board about a technical issue with the portal or about being unable to locate the notice of hearing.
6. I accept that the Tenant may have been attempting to resolve the rent issue with the Landlord's representative. However, those communications did not relieve the Tenant of his responsibility to make reasonable inquiries about the Board proceeding, especially once he knew that an application had been filed. A party who knows that an application exists must take reasonable steps to determine the status of the proceeding.
7. *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

8. I find that the principle in *Berezovs'ka* applies here. The Tenant had been living in the rental unit for many years. The notice of hearing was mailed to the rental unit. The Tenant had access to the mailbox by the end of January 2026. The Tenant knew there was a Board application and was communicating with the Landlord's representative about the matter. In these circumstances, the Tenant was required to exercise due diligence by checking his mail, contacting the Board, or otherwise confirming whether a hearing had been scheduled.
9. The Tenant did not do so. Instead, he relied on communications with the Landlord's representative and assumed the matter was being resolved. That was not sufficient. The Tenant's failure to attend the hearing was caused by a lack of diligence in dealing with the proceeding, not by circumstances that prevented him from participating.

10. I therefore find that the Tenant has not established, on a balance of probabilities, that he was not reasonably able to participate in the hearing. The request to review is denied.

Lifting the stay:

11. Given the length of this tenancy and the Tenant's personal circumstance, I find it appropriate to grant short delay in the lifting of the stay to May 15, 2026.

It is ordered that:

1. The request to review order LTB-L-103957-25 issued on February 26, 2026, is denied. The order is confirmed and remains unchanged.
2. The interim order issued on March 9, 2026, is cancelled. The stay of order LTB-L-103957-25 is lifted on May 15, 2026.

April 30, 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.