



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

File Number: LTB-T-002502-25-RV

In the matter of: 46 eminence rd
Concord ON L4K5K1

Between: Neil Couture Tenant

And

Weiming Chen Landlord

Review Order

Neil Couture (the 'Tenant') applied for an order determining that Weiming Chen (the 'Landlord') 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.

This application was resolved by order LTB-T-002502-25 issued on February 25, 2026.

On March 19, 2026, the Tenant requested a review of the order.

A preliminary review of the review request was completed without a hearing. In determining this request, I reviewed the materials in the LTB's file as well as the audio recording for this hearing.

Determinations:

1. On the basis of the submissions made in the request, I am not satisfied that there is a serious error in the order or that a serious error occurred in the proceedings.
2. In the Tenant's request to review, they allege that he presiding member made an error of law by denying the Tenant the opportunity to complete testimony on a critical issue, there was asymmetric treatment of the parties' evidence, and the presiding member erroneously excluded evidence rather than weighing it.

Denial of the opportunity to complete testimony

3. The Tenant states that the hearing took place over two dates, which were September 16, 2025 and December 2, 2025. On September 16, 2025, the Tenant provided their examination-in-chief with respect to their T6 Application. During this time, there were admissibility issues of a laboratory report from ImmunoLytics which analyzed mould samples in the rental unit. The Tenant stated that they requested an adjournment to address the evidentiary concerns that have been raised. This request was denied by the

presiding member, and was categorized by the presiding member as an attempt to change their litigation strategy, which was not the case.

4. At the hearing on December 2, 2025, the Tenant requested permission to supplement their testimony. This request was also denied on the basis that they had finished their testimony.
5. The Tenant submits that by the presiding member denying them the adjournment and the opportunity to provide further testimony caused prejudice to the Tenant. Although the adjournment sheet from the September 16, 2025 hearing stated that the matter would resume with cross-examination, the Tenant should have been permitted to address the evidentiary concerns that arose during the first hearing.

Analysis

6. On the basis of submissions made in the request, I am not satisfied that the presiding member made a serious error when they denied the Tenant's request for an adjournment or when they denied the Tenant's request to provide further testimony at the December 2, 2025 hearing regarding evidence that they already had the opportunity to provide.
7. Deciding whether to grant an adjournment of a hearing is an exercise of discretion. After hearing the submissions regarding the request to adjourn, the Member considered them, and a decision on the exercise of their discretion was rendered. I find the presiding member provided sufficient reasons to support their reasons for denying the Tenant's adjournment request in their order. By the presiding member denying the Tenant the opportunity to provide further submissions after an opportunity to provide evidence was concluded does not constitute a serious error. I find that the Member's decision to deny the Tenants' request to provide further evidence once their examination-in-chief was concluded was consistent with section 183 of the Act, which requires the Board to adopt an expeditious process to resolve disputes that affords parties the adequate opportunity to be heard. This is also consistent with the Board's authority to determine its process and procedures in any particular proceeding. I would also note that the Courts have confirmed that parties to an application are required to exercise due diligence to prepare for a Board hearing (*Q Res IV Operating GP Inc. v Berezovs'ka*, [2017] O.J. No. 4863 (Div. Ct.)).
8. As the presiding member considered relevant factors when arriving at his decision to deny the adjournment, and to refuse the Tenant further opportunity to provide evidence after already having the opportunity to do so does not constitute a serious error.

Erroneous Exclusion of Evidence

9. The Tenant states that the presiding member entirely excluded their laboratory report on the basis that it constituted hearsay. However, as per Section 15(1) of the SPPA, a tribunal may admit evidence that is necessary and reliable. Rather than admitting the report and assigning it an appropriate weight in light of the limitations identified by the adjudicator, the report was excluded completely. The Tenant states that this constitutes a

serious error as the exclusion deprives the presiding member of relevant evidence altogether. In addition, the presiding member refused to consider the Tenant's argument that this report constitutes a business record exemption.

Analysis

10. After considering the Tenant's submissions made in the request, I am not satisfied that the presiding member made a serious error when they did not admit the Tenant's report from ImmunoLytics. The presiding member's decision to deny the Tenant's request to rely upon this report is entitled to deference. Despite denying the Tenant's request to rely on this report, I find the presiding member gave the Tenant opportunity to present their claims in their applications. Although I note that the presiding member excluded the Tenant's report from the proceeding, they provided reasons to support their decision in their order, and I do not find this was an inappropriate exercise of discretion. I do not find that there was a serious error in this regard.

Asymmetric Treatment of the Parties Evidence

11. The Tenant states that during the proceeding, the presiding member also excluded the Landlord's environmental inspection report for similar reasons to why the Tenant's report was not permitted to be relied upon. However, this was asymmetric as the Landlord's witness was permitted to testify that he was present during the inspection that took place and to the condition of the rental unit. Through this evidence, the Landlord was able to place evidence about the investigation and the state of the rental unit, even though the formal report was excluded.
12. The Tenant states that when they made an attempt to provide equivalent testimony about their own actions by collection samples and observations in the rental unit they were advised that their testimony was finished, and was denied the opportunity to do so.
13. The Tenant states that the landlord had the benefit of testimonial evidence through their witness, however the Tenant was prevented from provided any testimony about theirs. This resulted in the decision concluding that the Tenant "failed to meet the "burden of proof".
14. Upon considering the Tenant's submissions, I do not find that the presiding member treated the parties' evidence asymmetrically. Although the Landlord was able to enter into evidence testimony about the report through a witness, this does not constitute a serious error or an inappropriate treatment of the evidence that was before the presiding member. The presiding member states in their order that the Tenant confirmed that they made no attempts to have the individual who drafted the report attend the proceedings and explain their findings. In addition, the presiding member provided adequate reasons and an explanation of their reasons to not rely on the report that the Tenant sought to introduce. I do not find that this constituted a serious error.

Closing Submissions

15. In their request to review, the Tenant states that the presiding member set a deadline of January 6, 2026 for the Landlord's closing submissions. The Landlord submitted their submissions on January 7, 2026. The Tenant states that although the order states that the late submissions were not read or considered, they are raising this issue in the request to review to ensure that the procedural record is complete as they did not have the opportunity to respond to any arguments raised in the Landlord's reply.
16. In the order, the presiding member states that that in view of procedural fairness, written submissions that were not submitted within the deadlines set out in the Endorsement dated December 8, 2025 were not read or considered. Therefore, I do not find that the presiding member relied on the late submissions by the Landlord in making their determinations on this matter.
17. Guideline 8 provides the Board with the ability to grant a review hearing when it is satisfied that the original hearing order contains a serious error. Under the heading of Guideline 8, "Grounds for Review: Serious Error", it states:

Serious error includes:

- An error of jurisdiction. For example, the order relies on the wrong section of the RTA or exceeds the LTB's powers. This issue need not have been raised at the original hearing;
- A procedural error which raises issues of natural justice;
- An unreasonable finding of fact on a material issue which would potentially change the result of the order;
- New evidence which was unavailable at the time of the hearing, and which is potentially determinative of one or more central issues in dispute;
- An error in law. The LTB will not exercise its discretion to review and order interpreting the RTA unless interpretation conflicts with a binding decision of the Courts or is clearly wrong and unreasonable; and
- An unreasonable exercise of discretion which results in an order outside the usual range of remedies or results and where there are not reasons explaining the result

18. Under the heading "errors of fact", it states:

"A review to review based on an alleged error of fact must include specific details of the alleged error and explain how a different finding of fact would change the result."

The original hearing Member's findings of fact are entitled to considerable deference. A request will not be granted simply because the reviewing adjudicator might have come to a different conclusion about the evidence. Even where it finds a factual error the LTB may not exercise its discretion to review if the error is trivial, does not relate to a material issue in dispute or would not change the result."

19. Based on the above, the presiding member's findings of fact are entitled to considerable deference or respect. The Tenant must persuade me that there appears to be no rational connection between the presiding members findings of fact and the evidence in the original hearing in order for me to make a finding that a serious error occurred. I find the presiding member's determination is rationally connected to the evidence that was presented before him.

20. On the basis of the submissions made in the request, I am not satisfied that there is a serious error in the order or that a serious error occurred in the proceedings. The Board will only exercise its discretion to grant a review when it is satisfied the order contains a serious error, a serious error occurred in the proceeding, or the requestor was not reasonably able to participate in the proceeding. A review is not an opportunity to change the way that a case was presented or argue a better case.
21. The presiding member considered the evidence of both parties and made a determination that was in the reasonable range of findings. Further, the presiding member is granted considerable deference regarding factual determinations and as such, I do not find that the order contains a serious error.

It is ordered that:

1. The request to review order LTB-T-002502-25 issued on February 25, 2026 is denied. The order is confirmed and remains unchanged.

April 27, 2026
Date Issued

Nathalia Debski
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.