



Order under Section 30 and 31 Residential Tenancies Act, 2006

File Number: LTB-T-005558-24 & LTB-T-005581-24

LTB-L-041292-24-IN

In the matter of: A, 264 Second Ave. W.
North Bay ON P1B3K9

Between: Nancy Mallon Tenant
Antal Tony Balla

And

Sam Rota Landlord

The capitalized word "Landlord" and/or "Tenant" refer to all parties identified as each at the top of the order.

Nancy Mallon and Antal Tony Balla (the 'Tenant') applied for an order determining that Sam Rota (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. (T6 application)
- substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenant or by a member of their household. (T2 application)
- harassed, obstructed, coerced, threatened or interfered with the Tenant.
- withheld or interfered with their vital services or care services and meals in a care home.

These applications were heard by videoconference on April 22, 2026.

The Landlord's Agent, the Landlord's Legal Representative Kelly Hawkes, and the Tenant Antal Tony Balla attended the hearing.

Determinations:

1. The Tenant applications were combined to be heard with the Landlord's L10 application LTB-L-041292-24; all matters were adjourned pending the determination being made in this order with respect to the Tenant's applications.
2. This Member raised the following as preliminary issues:

- a) The Tenant's applications name Sam Rota as the Landlord and the Landlord's application names City Bakery of North Bay Ltd. and Sam Rota as the Landlord Agent. Who is the properly named Landlord?
- b) No Tenant evidence on file.

Preliminary Issue (a)

- 3. The Landlord's Legal Representative submitted the properly named Landlord is City Bakery of North Bay Ltd.; Sam Rota is the owner of the company, therefore, an agent of the Landlord company. On the lease, the bakery is listed as the Landlord's legal name.
- 4. The Tenant submitted that Sam Rota always said he was the Landlord, which is why the applications name him.
- 5. The Tenant's application shall be amended to reflect the properly named landlord as City Bakery of North Bay Ltd.; as owner, Mr. Rota would be considered the Landlord's Agent. The files are to be amended accordingly.

Preliminary Issue (b)

- 6. The Tenant submitted that he sent the evidence on a USB stick to the Board via Purolator from Service Ontario; he was instructed to do this by the Board when he inquired as to how to submit the large amount of evidence that he has. The Tenant showed a picture of the Purolator slip on camera. As to the Landlord's evidence, it was also sent via Purolator to the Landlord's Legal Representative/Landlord from the Service Ontario office; the Tenant showed a hand-written envelop to the camera.
- 7. The Landlord's Legal Representative submitted neither the Landlord nor she received a copy of the Tenant's evidence. The tracking number on the Purolator slip shows the evidence went to an address in Scarborough which is neither the Landlord's nor her address. A copy of the Notice of Hearing for April 3, 2025, was included with the package sent on December 31, 2024 to the Tenant's previous Legal Counsel Mariusz Przybowski, the Tenant has had over a year to ensure the Landlord was given the evidence. As the Tenant did not follow the disclosure requirements, the Tenant's applications should be dismissed.
- 8. The Tenant submitted in reply, his applications should not be dismissed, everything should be adjourned so he can serve the Landlord the evidence.
- 9. The Tenant's applications are dismissed; the Tenant did not exercise due diligence with respect to the Landlord receiving a copy of his evidence. The Tenant has had over a year to follow up and ensure the Landlord and the Board received it; there is no evidence in the portal, therefore, it should have been apparent there was a problem with its disclosure. The Divisional Court's finding in Q Res IV Operating GP Inc. v. Berezovska, 2017 ONSC 5541 that says at paragraph 8 that, "Lack of due diligence in dealing with court proceedings is a reason for refusing to set aside an order where a party failed to appear"; logically, acting with due diligence is applicable to a party's actions throughout the legal proceeding.

10. While the above-noted preliminary issues were being addressed, a third issue arose: the Tenant advised he did not receive a copy of the Landlord's L10 application.

Preliminary Issue (c)

11. The Landlord submitted the application was served, as indicated on the certificate of service, to the Tenant's initial Legal Counsel Mariusz Przybylowski ; this was agreed upon at the initial hearing on April 3, 2025. It is not up to the Landlord to re-serve the L10 to the Tenant, for over a year the Tenant has known about the Landlord's application therefore, he has had plenty of time to follow up with their previous Representative. This is the first time the Tenant has mentioned not having a copy of the application.
12. The Tenant submitted he requested a copy of the L10 from his first lawyer but all that was in the package was the documents relating to the Small Claims Court matter; now that he understands fully that the Landlord filed an application, the matter should be adjourned so he can get a copy of it and fully defend against the allegations.
13. There have been numerous appearances concerning these matters, that the Tenant is only now notifying the Landlord that he does not have a copy of the application is unacceptable. I do not accept that the Tenant knew nothing about the Landlord's application as it was discussed at the ACC hearing for the Tenant's applications, including how it was to be disclosed. The Tenant should have followed up about receiving a copy of the L10 with his previous counsel or in the least, notified the Landlord that he still had no copy of it; the Tenant did neither. I also note that the email from the previous lawyer dated February 20, 2025, advises the Tenant the LTB file is ready for pick up, this email makes no mention of the Small Claims Court matter, therefore, I find it very unlikely that the LTB documents for the L10 were not included. Further, the Tenant did not dispute receiving the Landlord's disclosure package; a copy of the application was included at page 2 of this document, therefore the Tenant had the opportunity to review it and address any issue of not having received the original at the hearing.
14. As the Tenant's applications are being dismissed, the Landlord's L10 application LTB-L-041292-24 is adjourned to a date to be scheduled by the Board. Parties are to have their unavailable dates to the Board as ordered below. Any arguments for costs may be raised at the Landlord's application hearing. As per the Member presiding over the Adjudicative case conference held on December 16, 2024, no further evidence is permitted; the Member required it to be disclosed and filed by January 31, 2025.

It is ordered that:

Tenant applications

1. The Tenant's applications LTB-T-005558-24 & LTB-T-005581-24 are dismissed.

Landlord's application

2. The Landlord's application LTB-L-041292-24 is adjourned to a date to be scheduled by the Board. If not already done, the parties shall provide their unavailable dates for the months of October 2025 through January 2026, to the LTB by October 24, 2025.

3. The LTB will send the parties a Notice of Hearing for the next hearing date.
4. Parties shall provide the LTB with their unavailable dates for the period May through September 2026, by May 2, 2026.
5. On or before 7 days prior to the next hearing, the parties shall provide to each other and file with the LTB a copy of all documents, pictures and other evidence they intend to rely on at the hearing. Any issue(s) with respect to the admissibility of evidence may be dealt with at the hearing.
6. If a party does not comply with the deadlines for disclosure in paragraph 5, the Member may refuse to accept the evidence or consider the issues not disclosed.
7. If parties want to make disclosure through the Tribunals Ontario Portal, they must sign, and file the LTB's form called "Consent to Disclosure through Tribunals Ontario Portal" found on the LTB's website.
8. I am not seized.

April 30, 2026
Date Issued

Diane Wade
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.