



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

File Number: LTB-T-046748-23-RV
LTB-T-090335-23-RV

In the matter of: 13, 5 MAURICE ST
KITCHENER ON N2G4X5

Between: Teresa Melissa Bertin Tenant

And

Kitchener Housing Landlord

Review Order

Teresa Melissa Bertin (the 'Tenant') applied for an order determining that Kitchener Housing (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.

The Tenant also applied for a T2 order but the Application was incomplete and did not specify the claims advanced by the Tenant.

These applications each received an Adjudicative Case Conference.

On May 29, 2025 interim order LTB-L-046748-25-IN, LTB-T-090335-26-IN was issued limiting further amendments to the Tenant's applications.

These applications were heard together and were resolved by order LTB-T-046748-23 and LTB-T-090335-23 issued on February 26, 2026.

On February 26, 2026, the Tenant requested a review of the order.

On March 13, 2026 interim order LTB-T-046748-23-RV-IN was issued, staying the order issued on February 26, 2026.

This application was heard by videoconference on April 30, 2026.

The Landlord's agent Macy MacLean and T. McGurrin agent for the Landlord's representative Nabil Dawood and the Tenant attended the hearing.

Determinations:

Preliminary Issue: Adjournment

1. T. McGurrin, agent for the Landlord's representative, requested an adjournment because the hearing was scheduled on a date that the representative was previously booked. Although the representative did not file a request to adjourn the hearing, they did reach out to the Tenant who declined to consent.
2. The request to adjourn the review is denied, subject to Mr. McGurrin's ability to assist, however, I agreed that the de novo hearing, if the review were granted, would be adjourned for Mr. Dawood to attend, given it's complexity and the volume of materials.

Review Denied

3. The request for review submits there are a number of serious errors in the Boards order, and in the proceedings, specifically:
 1. The Board erred in dismissing the Tenant's T2 application for lack of particulars.
 2. The Board erred in finding the Tenant has poor housekeeping and concluding that this caused the continuing infestation.
 3. The Board erred by failing to address the role the maintenance issues played in the infestation.
 4. The Board failed to consider the third-party by-law non-compliance.

T2 Dismissal

4. In the review request, the Tenant submits she was prohibited from amending her application on May 29, 2025. This prevented her from correcting any errors in the application, and this was procedurally unfair.
5. Member Whitmore in the interim order issued on May 29, 2025 limited the Tenant's amendments, because the Tenant had, after two adjudicative case conferences, requested to amend her application multiple times. The Member correctly considered the manageability of the Tenant's voluminous materials and the lack of organization. Issues were limited to the most recent summary and Chronology of Events with Dates. The remedies sought were identified and limited.
6. It was not unreasonable for the Member to organize the Tenant in this way, and to require a book of documents in manageable form. It was further not unreasonable to limit further amendments, permitting the matter to move ahead on the basis of the application as it stood. This would ensure an expeditious proceeding that afforded all parties, both Tenant and Landlord to have an adequate opportunity know the issues and be heard on the matter. It would further avoid repeated adjournments.
7. It was not procedurally unfair that the Tenant be no longer entitled to amend. At the hearing, two years after the first application was filed, Member Mercer in her order issued February 26, 2026 properly considered the interim order limitations and the blank application. The Tenant had the benefit of two adjudicative case conferences.

8. The Member properly considered the legal principle that parties are entitled to know the case to be met to prepare an effective response. It was not unreasonable for the Member to find that the blank T2 application, even with the Tenant's added Chronology of Events with Dates, contained insufficient particulars. It is incumbent on the party advancing a claim to clearly set out their claim within the body of their application, or in a brief schedule. The Board and the opposing party are not required to read through voluminous disclosure to determine what is being alleged, and how to respond.
9. The Tenant's request to review this point is denied.

Credibility Finding

10. The Tenant submits in the review request that the Board made an unreasonable credibility finding by determining that the Tenant has poor housekeeping and finding this caused continued pest infestation.
11. The order issued February 26, 2026 makes no determination that the Tenant is a poor housekeeper. While the Member states the Landlord's evidence is that the Landlord's issue with pest control is as a result of the Tenant's 'poor housekeeping', the Member makes no reference to this in their analysis, nor draws any conclusions from that testimony. There is also no indication that Tenant's credibility was implicated as a result of that testimony.
12. As there was nothing in the order or the Tenant's submissions to support a determination that the hearing member made an unreasonable credibility finding, the Tenant's request on this point is denied.

Impact of Maintenance Issues on Pest Infestation

13. The Tenant submits that the Board failed to consider the role that maintenance issues played in the pest infestation. At the hearing she submitted none of her evidence in her packages were considered.
14. The Tenant did not identify what specific evidence was not considered nor did the Tenant point to any particular part of the order that indicated a failure to address any evidence advanced. Although the Tenant submits she was limited in what evidence she was permitted to bring out in the hearing, she did not identify any particular evidence that was not permitted. The order demonstrates that the Tenant gave testimony regarding maintenance issues, such as the bathroom mold, water pooling, and sink issues. The hearing lasted a significant time period during which the Tenant was permitted to present her evidence. The Tenant did not identify any specific time when she was stopped from giving evidence on the issues properly raised in the application.
15. The Board is only permitted to consider the evidence that was brought forward by a party during the hearing, in making their determinations. Simply because disclosure is filed in with the Board, or served on the other party, does not make it evidence until it is presented during the hearing. The Tenant evidently misunderstood and believed her entire body of disclosure would be considered and read by the hearing member.

16. I find the Member properly considered all the relevant and material evidence presented during the hearing and canvassed the evidence in her order broadly from both the Tenant and the Landlord. The Member adequately considered that evidence in her analysis.
17. I note that the cause of the infestation was not a relevant determination. Instead the relevant is whether the Landlord responded to both the maintenance issues and the infestation in a reasonable and timely manner. I find the Member properly applied the test in *Onyskiw* and correctly considered the impact of the Tenant's lack of compliance on the Landlord's ability to meet its maintenance obligations.
18. The Tenant's request to review the final order on this issue is therefore denied.

Failure to Consider Third Party By-Law Non-Compliance.

19. The Tenant submits that the Board failed to consider that the Landlord did not comply to by-law orders.
20. The Landlord submits they testified to the issue of By-Law involvement and was cross-examined by the Tenant. The Landlord complied with and participated in, inspections by By-Law officers. The order makes no mention of By-Law orders either in the Landlord or the Tenant's evidence, however, I am satisfied that although not directly mentioned in the order, the conclusions and determinations made by the Member are reasonable given the evidence at the hearing. There is nothing in the record to support the conclusion that the Member failed to consider essential evidence which would materially change the outcome of the order.
21. The order sets out a reasonable basis for the determinations made. As stated in Guideline 8 of the Board's Interpretation Guidelines, the Member's findings of fact are entitled to considerable deference. Reasonable determinations will not be interfered with on review.
22. Accordingly, 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

It is ordered that:

1. The request to review order LTB-T-046748-23 and LTB-T-090335-23 issued on February 26, 2026 is denied. The order is confirmed and remains unchanged.

May 7, 2026
Date Issued

Julie Broderick
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.