



**S Order under Section 21.2 of the Statutory Powers Procedure Act and under
Section 78(11)
Residential Tenancies Act, 2006**

File Number: LTB-L-083773-25-RV2

In the matter of: 12, 1520 BIRCHCLIFFE AVE
OSHAWA ON L1J3M2

Between: Durham Regional Local Housing Corporation Landlord

And

April Lessard Tenant

Durham Regional Local Housing Corporation (the 'Landlord') applied for an order to terminate the tenancy and evict April Lessard (the 'Tenant') and for an order to have the Tenant pay the rent they owe because the Tenant failed to meet a condition specified in the mediated settlement signed by the parties on March 3, 2025 with respect to application LTB-L-092491-24.

This application was resolved by order LTB-L-083773-25-RV issued on February 24, 2026.

On February 24, 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 26, 2026 interim order LTB-L-083773-25-RV-IN was issued, staying the order issued on February 24, 2026

This application was heard by videoconference on April 8, 2026.

The Landlord's Agent Kaye Banfield and the Landlord's Legal Representative Lindsey Whitehouse and the Tenant's Agent Sheila Lessard attended the hearing.

Determinations:

1. On the basis of the submissions made in the request, I am satisfied that the Tenant was not reasonably able to participate in the proceeding. I am not satisfied that there is a serious error in the order.
2. The Tenant's mother attended the hearing on the Tenant's behalf as her agent. She testified that the Tenant was unable to participate in the proceeding as she had an appointment with a vascular surgeon on the same day as the proceeding. She testified that the Tenant received the appointment by mail and because she has a damaged blood

vessel in her neck she is at high risk of a stroke, and it would take a long time to secure another appointment, therefore, the appointment had to be kept. She testified that the Tenant called the surgeon and asked to reschedule and was told it would be a 6 month wait for a new appointment. The Tenant's Agent provided an appointment letter to the Board confirming the appointment. The latter is dated January 7, 2026.

3. She testified that the appointment was scheduled at 10:00am and took approximately 4 hours.
4. She testified that the Tenant first became aware of the appointment shortly before February 9, 2026 and sent a request to the Landlord's Legal Representative to reschedule the hearing. She testified that the Landlord's Legal Representative consented to the request to reschedule and the request to reschedule was sent to the Board on February 14, 2026 by email. However, the Board records indicate that it was not received by the Board and added to the Tenant's file until February 23, 2026.
5. She testified that the Tenant received a confirmation that the request to reschedule had been received, but no confirmation that the hearing had been rescheduled. She testified that the Tenant did not join the hearing because she believed the hearing had been rescheduled based on the email received from the Board confirming her request to reschedule.
6. The Agent testified that the Tenant has a damaged blood vessel in her neck from a serious car accident, and broken neck, and other severe injuries. She testified that this also causes issues with confusion, memory, and dizziness.
7. The Tenant's Agent was presented with a court docket listing charges against the Tenant and court dates associated with those charges. She testified that she was not sure if the Tenant had attended a bail phase hearing on April 1, 2026, and confirmed that she plans on attending a hearing on April 9, 2026.
8. She testified that the Tenant was incarcerated at various points during the timeline of proceedings at the Board, but she was unable to provide exact dates. The Agent testified that the Tenant is currently incarcerated. She denied that the Tenant was incarcerated on February 20, 2026 the date of the last hearing.
9. She testified that she (the Agent) did not attend the hearing on February 20, 2026 because she had an appointment of her own. However, she also expressed that she believed the hearing had been rescheduled and that she would have changed her appointment and attended had she been aware the matter had not been rescheduled.
10. The Landlord's Agent Kaye Banfield testified that she responded to the Tenant's request to reschedule the hearing on February 9, 2026 and followed up with the Tenant on the 13th asking if she had rescheduled and was informed by the Tenant on February 14, 2026 that she had submitted the request to reschedule.
11. The serious error alleged by the Tenant is that the presiding Member in LTB-L-083773-25-RV determined that there had been no request to reschedule submitted by the Tenant to reschedule the hearing on February 24, 2026.

12. In *King-Winton v. Doverhold Investments Ltd.*, 2008 CanLII 60708 ('King-Winton'), the Divisional Court held that "being reasonably able to participate in the proceeding must be interpreted broadly, natural justice requires no less." Another consideration in *King-Winton* was that the tenant in that case had demonstrated an intention to pursue the proceedings.
13. In *Sutherland v. Lamontagne*, [2008] O.J. No. 5763 (Ont. Div. Ct.) the tenant in that case dialled in for a telephone hearing five minutes late and the Court held the Board should have granted the subsequent request for review.
14. In both *Bouillon v. Kennedy*, [2011] O.J. No. 2223 (Ont. Div. Ct.) and *Kewallal v. Jackson*, [2011] O.J. No. 1219 (Ont. Div. Ct.) the Court indicated that the Board should have granted review requests where the allegation was that the notice of hearing was not actually received.
15. Finally, in *Decosse v. Isles of Innisfree Non Profit Homes*, [2012] O.J. No. 964 (Ont. Div. Ct.) the tenant attended multiple hearing dates but on the final day arrived 20 minutes late. The Court held that the review request should have been heard.
16. What all of the Divisional Court cases have in common is the notion of fairness: a party who does not know about a hearing should have a chance to participate in a new one; a party that knows about the hearing and genuinely wants to participate but does not, should still have an opportunity to be heard.
17. In my view this request to review is an example of a Tenant who knows about the hearing and wants to participate but does not.
18. Ultimately, I am satisfied that the Tenant was aware of the proceeding and intended to participate, and had received consent from the Landlord to reschedule, and filed a request to reschedule to the Board. While the request to reschedule the hearing was not processed by the Board until February 23, 2026 I accept that the Tenant and the Tenant's Agent genuinely believed that the hearing on February 20, 2026 had been rescheduled.
19. While I would expect parties to conduct a reasonable level of due diligence, such as following up with the Board to confirm that the hearing had been rescheduled, I am also mindful that the Tenant has recently been in a serious accident which has left her with life threatening conditions and caused issues with confusion and memory loss, and I accept that the Tenant and her agent were operating under the belief the hearing had been rescheduled and had a genuine intention to participate.
20. While the Landlord's Legal Representative suggests that the Tenant was incarcerated on February 20, 2026 which is the true reason she could not participate, I am not satisfied that this has been established. While I am prepared to accept that the Tenant has had recent periods of incarceration there is no clear evidence before me which definitively states that the Tenant was incarcerated on the previous hearing date.
21. I am not satisfied that there is a serious error in the order. While the Tenant alleges a serious error on the basis that the original review order LTB-L-083773-25-RV indicates that that Tenant failed to formally reschedule a rescheduling of the hearing.
22. While I accept that the Tenant did in fact file a formal request to reschedule on February 14, 2026 I note that this was not received and processed by the Board until February 23,

2026. This is after the hearing held on February 20, 2026, and I therefore find that it was reasonable for the presiding Member to conclude that as of the hearing date the Tenant had not filed a formal request to reschedule as this request would not have been visible to the Member.

23. The request to review order LTB-L-083773-25-RV issued on February 24, 2026, is granted on the basis that the Tenant was not able to reasonably participate. The order is cancelled and replaced with the following:

There was a breach of the previous order

24. The Tenant failed to meet a condition specified in the mediated settlement signed by the parties on March 3, 2025 with respect to application LTB-L-092491-24.
25. The Tenant failed to pay to the Landlord the lawful rent of \$307.00 in full and on time, on or before October 1, 2025. The Tenant also failed to pay the full \$278.00 towards arrears on or before October 1, 2025. The Tenant's Agent confirmed that the Tenant had breached the previous order as alleged by the Landlord's L4 Application.

The surrounding circumstances

26. After considering all of the circumstances, I find that it would be unfair to set aside order LTB-L-083773-25.
27. The Tenant's Agent testified that the Tenant breached the previous order because she did not have her Ontario Works because her former partner consistently calls into places including CAS and Ontario Works and the Humane Society with false complaints, which he has been doing since 2021.
28. She testified that every so often her Ontario Works is cut off and the Tenant must go through an appeal process to have her Ontario works restored and will not receive back payments. She testified that she believes the Tenant's Ontario works was cut off more than once in October 2025 and the Tenant was able to have it restored in or about December 2025. She testified that the Tenant is currently incarcerated, and her Ontario Works has again been cut off. She testified that there was a 95% chance of her charges in Perth being dropped today, and the Tenant has an Oshawa Bail hearing on April 15, 2026.
29. She testified that she did not know how much the Tenant receives per month from Ontario Works when the benefit is being paid. She testified that the Tenant's only other source of income is a Child Tax Benefit of approximately \$1000.00 per month.
30. She testified that the Tenant had made payments towards the rent since the arrears including in February, March and April 2026.
31. She testified that the Tenant has 4 children, 3 of whom live with her and are expected to return to the rental unit in June at the end of the school year, and the children often stay at the rental unit on the weekend. She indicated that CAS was coming for a visitation tomorrow and potentially signing off on releasing the children to the Tenant.

32. The Tenant's agent could not provide me with a robust accounting of the Tenant's expenses and did not have knowledge of the majority of the Tenant's monthly expenses.
33. The Agent testified that her husband was prepared to pay all of the outstanding arrears, but only if the Tenant were not evicted.
34. In the alternative the Agent sought a delay of a few months to allow the Tenant time to find people to help her move as the Tenant is unable to participate in the move due to her injuries.
35. The Landlord's Agent Kaye Banfield testified that the rental unit is an RGI unit with a long waiting list. She testified that the arrears have increased since the breach. She also testified that she became aware that there was a lot of activity in the unit and determined there was someone else residing in unit in the Tenant's absence and testified there was no request to add this person to the lease.
36. She also indicated that the Landlord has not received the Tenant's documents which are required to continue her RGI assistance. Therefore, the unit shall be reverting to market rent effective May 1, 2026 at which time rent will be \$1366 per month.
37. After considering all of the circumstances, I find that it would be unfair to set aside order LTB-L-083773-25. Based on the testimony of the Tenant's Agent I am not satisfied that the tenancy is viable. The Tenant has lost one of her major sources of income, and it is not clear when this will be restored. Additionally, the Tenant's Agent was unable to provide me with a fulsome pictures of the Tenant's expenses to allow me to determine whether or not the tenancy is viable or a new payment plan may be appropriate.
38. I also note that the rent is scheduled to change to market rent of \$1366.00 per month May 1, 2026, which exceeds the Tenant's current income from her only remaining source of income.
39. I also note that the hearing held on Februray 20, 2026 was an adjournment of the underlying motion to set aside which had been granted to allow the Tenant time to resolve her problem with Ontario Works and establish whether she has a sustainable income. While I note that the Tenant has received a fresh hearing before me, and I also note that as of this hearing the Tenant is not longer in receipt of Ontario Works due to her incarceration.
40. As I am not satisfied that the tenancy is viable, I find that it would be unduly prejudicial to the Landlord to set aside the order.

The stay is lifted on May 15, 2026.

41. The stay of order LTB-L-083773-25 is lifted on May 15, 2026.
42. I am cognisant that the Tenant had experienced challenges recently, that her children will be impacted by the eviction, and that the rental unit is subsidized housing. I also accept that the Tenant's ability to move will be impacted by her incarceration and health status. Therefore, I am satisfied that a delay to May 15, 2026, is approroately to allow the Tenant

additionally time to vacate and secure alternate accommodation. As they ruling was conveyed orally at the hearing the delay shall not extended as a result of the date of this order.

It is ordered that:

1. The motion to set aside Order LTB-L-083773-25, issued on October 28, 2025, is denied.
2. The stay of order LTB-L-083773-25 is lifted on May 15, 2026.

May 12, 2026
Date Issued

Reid Jackson
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.