



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

Citation: Toscani Development LTD v Brewer, 2026 ONLTB 37778

Date: 2026-05-13

File Number: LTB-L-032444-25-RV

In the matter of: 118, 6 SIRENTE DR
HAMILTON ON L9A0C3

Between: Toscani Development LTD Landlord

And

Michelle Brewer Tenants
Robert Brewer

Review Order

Toscani Development LTD (the 'Landlord') applied for an order to terminate the tenancy and evict Michelle Brewer and Robert Brewer (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was resolved by order LTB-L-032444-25 issued on April 7, 2026.

On April 30, 2026, the Tenants 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. In the review request, the Tenants assert that the presiding Member denied procedural fairness, exhibited bias, did not properly consider an ongoing rent abatement and overall disagrees with the outcome of the order and the Member's exercise of discretion.
2. 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 or that the Tenants were not reasonably able to participate in the proceeding.

The Ongoing Rent Abatement

3. The Tenants state the Member failed to consider their request for ongoing rent abatement for various issues raised at the hearing.

4. I note, on May 12, 2026, the Member issued an amended order where an ongoing rent abatement was applied to relevant breaches.
5. I have reviewed the original order and the amended order and find the Member's amendments appropriately address the Tenants claims made in the review request related to ongoing rent abatement. Therefore, no further consideration is required.

Were the Tenants denied a procedurally fair hearing?

6. Throughout the review request, the Tenants assert they were denied a procedurally fair hearing when, the Member talked negatively about them, threatened the Tenants, the Member was frustrated and "bent out of shape" and insulted them. They state the Member failed to explain the process and ignored their evidence. The Tenant said the Member was biased against them.
7. I have reviewed the application record and have listened to the relevant portions of the hearings that occurred on December 22, 2025 and March 18, 2026.
8. The recordings confirm that the Tenants were not denied a fair hearing. The Tenants were afforded and exercised a full right to participate in the hearings by leading evidence and submissions and by responding to the Landlord's evidence and submissions.
9. While the Member, on occasion, interrupted the Tenants, the purpose was to move the matter forward when they provided irrelevant or repetitive submissions. I do not find the Member exhibited the behaviour as described by the Tenants. At all times, the Member provided clear and relevant direction to the parties and did so in a respectful manner.

Bias of the Board Member

10. The review request further alleges that the presiding Member was biased against the Tenants.
11. The issue of bias arises from the Tenants complaint that the Member failed to consider some of their s.82 issues with respect to maintenance. They believe this was unfair and "shows bias against them" and the Member is "trying to punish the tenants..."
12. Having applied the relevant law, the Member at paragraphs 19 and 20 of the order, appropriately limits the issues the Tenants were permitted to raise. There is no error with this determination.
13. It should be noted here that the Tenants did not raise the issue of bias or apprehension of bias at the hearing. It seem to me that the Tenants did not think of this issue of bias until they received the order. While the Tenants may not have agreed with the final outcome, they cannot assert that this is indicative of bias. The fact that the trier of fact does not accept a party's evidence or prefers the other party's evidence cannot be the basis of an allegation of bias or a reasonable apprehension of bias. I find that, in this

case, the result of the hearing does not indicate bias. Having not raised it at the original hearing, the Tenants cannot claim bias as a serious error.

The s.83 Considerations

14. The review request further alleges that the Member unreasonably exercised discretion in considering s.83 circumstances. However, paragraphs 11 to 17 and 77 to 76 clearly show the Member turned her mind to the Tenants' circumstances.
15. The Tenants assert that the Member made numerous errors in fact related to the Member's decision to preserve the tenancy on the condition that the Tenants adhere to a payment scheduled regarding the arrears. The Tenants requested relief by way of a payment plan but opposed the Member's decision to extend to the plan to 10 months versus the 12 months sought by the Tenants was based on her consideration of the evidence presented at the hearing. While the Tenants disagree with the outcome, the order provides a reasonable basis for the determinations made. As set out 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.
16. The recordings and the order confirms that the Member turned her mind to the mandatory refusal provision of s.83(3)(a) of the Act. The Member's determination that the Landlord was not in serious breach of the Act was based on the evidence led at the hearing and the Member's decision falls within a reasonable range of outcomes.
17. The Tenants' disagreement with the Member's determinations is not sufficient grounds for review. There is nothing in the record to support a determination that the hearing Member applied improper principles in assessing the evidence introduced or that there was insufficient evidence before the Board to support its conclusions.
18. The hearing Member's exercise of discretion was rationally connected to the parties' evidence and submissions, and the exercise was therefore not capricious. Although another Board Member may have exercised their discretion differently, as stated above, the presiding hearing Member's decision is entitled to deference.
19. The balance of the review requests overall challenges the Member's findings of fact. The Tenants essentially take issue with the fact that the Member preferred the Landlord's evidence.
20. Having reviewed the application record and the hearing recordings, I am unable to find that the Member made serious error in fact or in law. The order clearly sets out the position of the parties related to the arrears, s.83 considerations, s.82 issues and remedies.
21. It was not unreasonable for the Member to preserve the tenancy, subject to a payment schedule that considered a significant offset against the rent owing by the Tenants.

22. The Board must be satisfied that there appears to be no rational connection between the findings of fact and the evidence presented at the original hearing. There was sufficient evidence before the presiding Member to support her decision. I find that the Member's fact findings are rationally connected to the evidence and are entitled to considerable deference.
23. While the Board appreciates the Tenants believe that they deserved a greater offset, the Member's order sets out rational and sufficient reasons to support the ultimate outcome. Being unhappy with a decision and believing it to be unfair in the abstract does not warrant either a review or permitting re-litigation of the issues.
24. Accordingly, I am not satisfied that there is a serious error in the order or that a serious error occurred in the proceedings. As a result, the Tenants' review request is denied.

It is ordered that:

1. The request to review order LTB-L-032444-25 issued on April 7, 2026 is denied. The order is confirmed and remains unchanged.

May 13, 2026
Date Issued

Dana Wren
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.