



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

Citation: CuvIELLO v Agar, 2026 ONLTB 38668

Date: 2026-05-12

File Number: LTB-L-105040-25-RV

In the matter of: FRONT TWO ROOMS, UNIT B UPPER FLOOR, 5087 RIVER
RD
NIAGARA FALLS ON L2E3G7

Between: Vito CuvIELLO Landlord

And

James Agar Tenant

Review Order

Vito CuvIELLO (the 'Landlord') applied for an order to terminate the tenancy and evict James Agar (the 'Tenant') because:

- the Landlord in good faith requires possession of the rental unit for the purpose of residential occupation for at least one year.

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was resolved by order LTB-L-105040-25 issued on April 24, 2026 pursuant to a hearing held on March 10, 2026 at which the Landlord, the Landlord's Legal Representative, Judith Callender, and the Tenant attended.

On May 12, 2026, the Tenant requested a review of the order.

A preliminary review of the review request was completed without a hearing.

Determinations:

1. The Tenant's request to review claims there is a serious error in the order and that they were unable to reasonably participate in the proceedings.
2. The only submission made by the Tenant in relation to their ability to participate in the hearing is that they were not able to speak with tenant duty counsel prior to their hearing, as tenant duty counsel was unavailable. This is insufficient to ground a finding that the Tenant was not reasonably able to participate in the hearing. Parties are expected to attend hearings prepared to proceed. I note that the LTB's Notice of Hearing provides

information as to how to get in touch with legal clinics, and advises that legal advice should be sought prior to the hearing.

3. The Tenant submits there is a serious error in the order as:
 - a. The address in the order does not match the address in the Tenant's original rental agreement;
 - b. The Tenant does not believe eviction would have been granted if not for the City of Niagara Falls owner-occupied short-term rental program and that this program caused the Member to err in applying the definition of personal use;
 - c. There are date errors contained in paragraph 17 of the determinations in the order; and
 - d. The Landlord obtained permits for renovation prior to the City of Niagara Falls owner-occupied short-term rental program being approved.
4. Absent a serious error, a review is not an opportunity to reargue your case in hopes of a more favourable outcome. Nor is it an opportunity to present evidence and submissions that could and should have been presented at the original hearing.
5. If there was an issue with the address listed in the notice of termination, the Tenant had an opportunity to raise this issue at the hearing. Similarly, if the Tenant wished to raise evidence related to the timing of permits being obtained, the Tenant had an opportunity to do so at the hearing. The review request does not indicate that either of these issues were put before the Member during the hearing. There is therefore no basis from the submissions made by the Tenant to find that the Member committed a serious error by not considering these issues.
6. It is irrelevant whether or not eviction would have been granted if not for the City of Niagara Falls owner-occupied short term rental program. The order sets out detailed reasons for the determinations made by the Member and establishes a reasonable basis for those determinations. Reasonable determinations will not be interfered with on review.
7. There is nothing in the order or the Tenant's submissions 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. This includes that there is nothing that supports the idea that the Member improperly applied the definition of personal use in the order. That the Tenant disagrees with this assessment is insufficient to ground a review on the basis of serious error.
8. The Tenant submits there are date errors in paragraph 17 of the determinations in the order. The Tenant appears to be correct in this submission, in that the order twice references May 12, 2025 when it is clear that the order intends to reference May 12, 2026. I find this error is clerical in nature, and does not constitute a serious error. Given

the meaning of the paragraph remains clear from a plain reading, and that this dating error is not contained in the enforceable portion of the order, there are no consequences that flow from this clerical error.

9. 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 the Tenant was not reasonably able to participate in the proceeding.

It is ordered that:

1. The request to review order LTB-L-105040-25 issued on April 24, 2026 is denied. The order is confirmed and remains unchanged.

May 12, 2026
Date Issued

Benjamin Seigel
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.