



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

Citation: Richardson v Crawford, 2026 ONLTB 39358

Date: 2026-05-19

File Number: LTB-L-095244-25-RV

In the matter of: 6, 1 HENDERSON AVE
BRAMPTON ON L6Y 2A3

Between: Mark Richardson Landlord

And

David Crawford
Timothy Cochrane Tenants

Review Order

Mark Richardson (the 'Landlord') applied for an order to terminate the tenancy and evict David Crawford and Timothy Cochrane (the 'Tenants') because:

- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant.
- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has wilfully or negligently caused damage to the premises.

The Landlord also applied for an order requiring the Tenants to pay the reasonable out-of-pocket costs the Landlord has incurred or will incur to repair or replace undue damage. The damage was caused wilfully or negligently by the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex.

This application was dismissed by order LTB-L-095244-25 issued on March 17, 2026.

On March 30, 2026, the Landlord requested a review of the order.

On March 31, 2026, the Board granted interim order LTB-L-095244-25-RV-IN directing a hearing of the request for review and staying the operation of order LTB-L-095244-25 issued on March 17, 2026.

The request for review was heard in videoconference room 149 on May 13, 2026.

The Landlord, the Landlord's agent Ellen Joanna Aldajuste and the Tenants attended the hearing.

Determinations:

1. The Landlord challenges the Board's findings of fact in dismissing his application for termination and for damages.
2. The Board's Interpretation Guideline 8 *Review* explains that findings of fact will constitute a serious error where they are unreasonable and have the potential to change the result of the order. This Guideline is not binding on me but I accept that it reflects the well-established common law principle that findings of fact will not be disturbed unless they reveal a palpable and overriding error. An error is palpable if it is obviously wrong, unreasonable or unsupported by the evidence. An error is overriding where it affects the outcome of the case because it relates to the core of the dispute.
3. The Landlord submits that the Board misapprehended material evidence by failing to consider the fact that his agent possesses expertise on the subject of nicotine staining gained through experience. The Landlord also submits that the Board's observation that the Landlord's photographs do not "conclusively" show nicotine staining means that the Board held the Landlord to an impermissibly high standard of proof.
4. It is apparent from the Board's reasons for decision that the Board found the evidence to be evenly balanced and therefore found that the Landlord had failed to discharge the burden of proof on a balance of probabilities. This is the correct standard of proof.
5. Specifically, the Board found that the photographs presented by the Landlord were insufficient to prove that the rental unit was damaged beyond repair by nicotine staining caused by the Tenants' smoking. The Board was prepared to accept the Tenants' testimony that they had not smoked in the rental unit for months.
6. The Board also found that allegation of noise causing substantial interference was not substantiated because no person who had observed the alleged noise came forward to testify. The Board was not prepared to accept the Landlord's hearsay evidence in the face of the Tenants' denial which the Board found to be credible. This finding of fact is rationally grounded in the evidentiary record.
7. In addition to finding that liability had not been established, the Board also found that the Landlord's evidence of the quantum claimed for the alleged damage was insufficient because it was not supported by details. No quotes, bills, invoices or receipts were presented and the Landlord's agent testified that the Landlord had not in fact incurred any expense yet. The Board's rejection of this claim is a finding that is rationally connected to the evidentiary record and discloses no error.
8. The trier of fact is free to accept some, none or all of a party's evidence. There is no error simply because a particular piece of evidence is not mentioned or not accepted.
9. The order of the Board sets out in sufficient detail the reasons why the hearing adjudicator arrived at his findings of fact. The order identifies relevant evidence of the Landlord regarding the allegations of damage and noise including photographs and the hearsay declaration presented by the Landlord. The order also explains in sufficient detail why the Board preferred the testimony of the Tenants.
10. Although another adjudicator may have weighed and assessed the evidence differently, findings of fact are entitled to deference where there is no error in principle. I cannot

interfere with the assessment of the evidence by the adjudicator who had the opportunity to observe the witnesses and to hear the totality of the evidence.

11. Based on my review of the hearing recording and the submissions presented in the request for review hearing, I am not satisfied that there is a serious error in the order or that a serious error occurred in the proceedings. Therefore, the review must be denied.

It is ordered that:

1. The request to review order LTB-L-095244-25 issued on March 17, 2026 is denied. The order is confirmed and remains unchanged.
2. The interim order issued on March 31, 2026 is cancelled. The stay of order LTB-L-095244-25 is lifted immediately.

May 19, 2026
Date Issued

Nersi Makki
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.