



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

File Number: LTB-L-086607-25-RV-AM

Of my own motion the order is clerical amended as below in bold and underlined.

In the matter of: 4, 77 CHIPPAWA RD
Port Colborne ON L3K1T4

Between: 1000321462 Ontario Inc Landlord

And

Ashley Brown Tenant
Todd Brown

Review Order

1000321462 Ontario Inc (the 'Landlord') applied for an order to terminate the tenancy and evict Ashley Brown and Todd Brown (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-086607-25 issued on January 29, 2026.

On February 19, 2026, the Tenant Todd Brown requested a review of the order and that the order be stayed until the request to review the order is resolved.

On interim order LTB-L-086607-25-RV-IN was issued, staying the order issued on February 20, 2026

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

The Landlord Hyeonmin An and both Tenants attended the hearing.

Determinations:

1. The Tenant submitted that they were not reasonably able to participate due to ongoing domestic violence.
2. While allegations of domestic violence are serious and may, in appropriate circumstances, engage procedural fairness considerations, the Tenant provided:
 - no documentary evidence.

- no corroborating testimony, and
 - no explanation as to how the alleged circumstances specifically prevented participation in the hearing.
3. The Tenant did not demonstrate an inability to access the hearing, an inability to communicate with the Board, or any attempt to seek an adjournment or accommodation.
 4. The Tenant admitted to receiving the N4 Notice of Termination.
 5. The evidence established that the Tenant made a payment of \$600.00 towards the outstanding arrears. There was no evidence presented that any further rent payments were made.
 6. Since the filing of the review in February 2026, the Tenant provided no evidence of on-going rent payments.
 7. The Landlord objects to the review request and submits that they emailed the Tenant several times regarding repayment of the arrears. The Landlord states that the Tenant last paid rent in full in June 2025, in the amount of \$1,200.00. Following one of the Landlord's emails about repayment, the Tenant made a partial payment of \$600.00 in November 2025. The Landlord submits that they have not heard from the Tenant since that time. The current arrears total \$9,000.00
 8. The L1 hearing was held on January 12, 2026. The LTB's file contains a certificate by LTB staff that the notice of hearing was mailed to the Tenant at the rental unit address on December 3, 2025 (deemed served 5 days later by Rule 3.9 of the Board's *Rules of Procedure*).
 9. The Board's power to review a decision may be exercised if a party to a proceeding was not reasonably able to participate in the proceeding. The case law from Divisional Court generally instructs the Board that the meaning of the phrase "not reasonably able to participate" should be interpreted broadly, to ensure natural justice, and where a party shows a genuine intent to participate in a hearing but was prevented from doing so, they should be entitled to a hearing through the review process. A party's genuine intent to participate must be borne out by the evidence which clearly demonstrates the party's intent to participate in the hearing.
 10. In *Kathryn King-Winton v. Doverhold Investments* 2008 CANLII 60708 (ON SCDC), the Divisional Court stated: "Being reasonably able to participate in the proceeding must be interpreted broadly, natural justice requires no less.
 11. On the evidence before me and applying the principles set out by the Divisional Court in *Kathryn King-Winton v. Doverhold Investments*, 2008 CanLII 60708 (ON SCDC), I am required to interpret the phrase "not reasonably able to participate" broadly, in a manner consistent with natural justice. However, the Court also made clear that a party must demonstrate, through credible evidence, a genuine intention to participate in the proceeding that was frustrated by circumstances beyond their control. In this case, the Tenant has not met that threshold. The Tenant has not provided reliable or detailed

evidence establishing how the alleged domestic violence created an actual barrier to her participation in the hearing, nor has she explained why she was unable to contact the Board, seek an adjournment, or otherwise communicate her circumstances prior to the hearing date. Further, the Tenant's conduct following service of the Notice of Hearing does not demonstrate a genuine intention to participate, as required by *King-Winton*. There is no evidence of attempts to engage with the process either before or shortly after the hearing. While I accept that serious personal circumstances can, in appropriate cases, affect a party's ability to participate, the explanation provided here is insufficiently detailed and unsupported to establish that the Tenant was prevented, rather than elected not, to participate.

12. 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 and that the Tenant was not reasonably able to participate in the proceeding.

It is ordered that:

1. The request to review order LTB-L-086607-25 issued on is denied. The order is confirmed and remains unchanged.
2. The interim order issued on is cancelled. The stay of order LTB-L-086607-25 is lifted immediately.

May 15, 2026
Date Amended

Anthony Bruno
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.