



**Order under Section 87 / 89
Residential Tenancies Act, 2006**

File Number: LTB-L-016963-25

In the matter of: 154 DES AUBRAIS CRES
ORLEANS ON K1W0N2

Between: Sandy Mansour Landlord

And

Sean Decaire Former Tenant
Diana Smith

Sandy Mansour (the 'Landlord') applied for an order requiring Sean Decaire and Diana Smith (the 'Former Tenant') to pay the rent and daily compensation that the Former Tenant owes.

Sandy Mansour (the 'Landlord') applied for an order requiring Sean Decaire and Diana Smith (the 'Former Tenant') to pay the Landlord's reasonable out-of-pocket costs that the Landlord incurred or will incur to repair or replace undue damage to property. The damage was caused wilfully or negligently by the Former Tenant, another occupant of the rental unit or someone the Former Tenant permitted in the residential complex.

This application was heard by videoconference on May 4, 2026.

The Landlord agent Fady Rizk, the Landlord and both Former Tenants attended the hearing.

Determinations:

1. This hearing was previously heard on October 22, 2025 and adjourned due to service issues identified by the hearing member. Both the Landlord and the Former Tenant failed to comply with the Board's Rules of Procedure Section 19 for Disclosure of Evidence.
2. At this hearing, the Former Tenants raised a preliminary issue that the Landlord still had not met the disclosure requirements in accordance with the Board's Rules of Procedure and the instructions from the member at the October 22, 2025 hearing.
3. The Former Tenants position is they are unable to know the case to be met or dispute the Landlord's evidence as they have not received it.
4. The Landlord does not dispute the Former Tenant's preliminary issue and stated she experienced "major life events" that prevented the her from providing the Former Tenant with evidence.

5. The Landlord then stated that it was her understanding that the Former Tenants had access to the portal and could access all the Landlord's files.

Analysis

6. Rule 5 of the Board's Rules of Procedure Failure to Serve state:

5.17 Where a party fails to serve as ordered the LTB may:

- a. proceed with the hearing if satisfied there will be no prejudice to any party;
- b. adjourn the hearing; or,
- c. **dismiss the application**, motion or request.

7. Rule 19 of the Board's Rules of Procedure Disclosure of Evidence states:

Rule 19 - Disclosure and Evidence

19.1 Unless the LTB has directed or ordered otherwise, all parties to a matter that has been scheduled for a CMH or a hearing must provide the other parties and the LTB with a copy of all documents, pictures and other evidence that the party intends to rely upon at least 7 days before the CMH or hearing . **The evidence must be provided to the other parties using one of the methods of service** identified in the RTA or Rule 3.

[emphasis]

8. Uploading materials to the Tribunals Ontario Portal (TOP) does not mean materials have been provided to the other parties unless you have entered into a written consent agreement that specifically provides for this.
9. That is not the case before me. The Landlord and the Former Tenant did not fill out the Board form allowing for disclosure by uploading documents to the portal.
10. Board records indicate the Landlord had filed approximately 30 separate files of evidence and in my view, it is prejudicial to the Former Tenant that they should be expected to sift through the Landlord's evidence and guess at what the Landlord will be relying on.
11. The Landlord had the benefit of a prior hearing, where the member put the Landlord on notice with respect to the issue with disclosure and the Landlord failed to address the issue and serve the Former Tenant the evidence for this hearing.
12. I pointed out that the time between this hearing and the prior October 22, 2025 hearing was approximately six months which in my view was more than sufficient time for the Landlord to provide copies of her evidence to the Former Tenant.

13. Although the Landlord stated she had good reason why she could not provide the Tenant with the Landlord's disclosure over the last six months the Landlord chose not to provide the Board with those reasons.
14. The Landlord's failure to provide disclosure of the evidence they intended to rely on at the hearing constitutes a breach of procedural fairness. Procedural fairness requires that each party be given a meaningful opportunity to know and meet the case against them. This includes disclosure of relevant documents and evidence in advance of the hearing in accordance with the Board's Rules of Procedure section 19.
15. The Tenant was effectively ambushed at the hearing, and in my view, this creates significant procedural prejudice and creates an unequal and unfair proceeding if the hearing were to proceed which would force the Former Tenant to respond to evidence without the opportunity to review it.
16. I considered the prejudice to the Landlord in not adjourning the hearing a second time to allow disclosure, however in my view this prejudice is a direct result of the Landlord's failure to comply with the clear instructions from the prior member and the Board's Rules of Procedure available to the Landlord.
17. With the totality of the submissions before me I find it reasonable to dismiss the Landlord's application for failure to serve the Former Tenant copies of the Landlord's evidence.
18. Therefore, the Landlord's application is dismissed.
19. This order contains all reasons for the determinations and order made. No further reasons will be issued.

It is ordered that:

1. The Landlord's application is dismissed.

May 26, 2026
Date Issued

Greg Brocanier
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.