



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

Citation: Vergara v Copilu, 2026 ONLTB 39855

Date: 2026-05-20

File Number: LTB-L-100763-25-RV

In the matter of: 703, 225 SACKVILLE ST
TORONTO ON M5A0B9

Between: Maria Esther Mafla Vergara

Landlord

And

Mitchell Copilu

Tenant

Review Order

Maria Esther Mafla Vergara (the 'Landlord') applied for an order to terminate the tenancy and evict Mitchell Copilu (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-100763-25 issued on February 17, 2026. The hearing was held on February 9, 2026. As of 1:53 p.m., the Tenant was not present nor represented at the hearing.

On May 4, 2026, the Tenant requested a review of the order and that the order be stayed until the request to review the order is resolved.

On May 5, 2026, interim order LTB-L-100763-25-RV-IN was issued, staying the order issued on February 17, 2026.

This request to review was heard by videoconference on May 14, 2026. The Tenant is also reviewing Order LTB-L-079622-25 issued on January 26, 2026, based on an L2 application because the Landlord gave the Tenant an N12 notice of termination because the Landlord in good faith requires possession of the rental unit for personal occupation for at least one year pursuant to s.48 of the Act. The matters were heard concurrently.

The following people attended the request to review:

- Maria Vergara ('Landlord')
- Niko Homberg (Landlord's Agent)
- Elizabeth Sonya West (Landlord's Witness)
- Allistair Trent (Landlord's Legal Representative)
- Michell Copilu ('Tenant')
- Alena Vidyadhar ('Tenant's Legal Representative')
- Victoria Peter ('Tenant's Legal Representative')

Determinations:

Preliminary Issue:

1. The Tenant seeks an adjournment of the request to review on the basis that in order to provide a procedurally fair hearing, the Tenant's Representative(s) wished to gather additional medical documentation from the Tenant's treating physicians stating, "more time may be needed to assess the Tenant's disability-related needs."
2. Submitted into evidence is a letter from the Tenant's family physician dated May 5, 2026. It states, (in-part): "This is to confirm that he is currently undergoing assessment and management of cognitive symptoms and has multiple previous/chronic conditions for which we and his specialist medical team are providing care."
3. The Tenant's Representative states that they have made attempts to get medical documentation from his care team but have not been successful. For example, one of the physicians appeared to be on holiday.
4. The Landlord submits that this is highly prejudicial to the Landlord. The Landlord had two separate hearings neither of which the Tenant attended. Both orders are now stayed, the Tenant is not making rent payments and has amassed significant arrears. The Landlord also remains unable to move into the rental property while awaiting the outcomes of the reviews. The Landlord also submits that the medical documentation falls below the standard required to grant an adjournment.
5. The Divisional Court in *Wang v. Oloo*, 2023 ONSC 1028 ('Wang') considered the information required from a doctor's note to support a finding that an adjournment was necessary, stating that the party requesting the adjournment must provide "sufficient information to enable the court or tribunal to exercise its own judgment as to whether the adjournment should be granted", and "at a minimum, describe the diagnosis, the effect of the patient's condition on their ability to attend and participate in the hearing, and a statement as to when... the patient will be well enough to attend court and participate as required."
6. I was not persuaded that the medical information provided "sufficient information" as described in *Wang*. The doctor's note does not provide a diagnosis or whether a diagnosis has been made. More importantly, there is no indication in the medical documentation to support how the condition may impact the Tenant's ability to participate in a hearing. I understand the Tenant Representative's submissions that despite their best efforts they have been unable to secure more detailed information. However, the Representatives were retained since at least March 22, 2026.
7. The Tenant Representatives also submit that an adjournment is necessary to afford the Tenant a procedurally fair hearing. This case also involves a request for review, and I find *Wang* informs the type of information required about a medical condition necessary to support a finding that someone cannot participate in a hearing. The Court in *Wang* states that doctor's notes must contain sufficient information such that the Board can exercise its own judgment as to whether the adjournment should be granted. Absent this information, the Tenant cannot be said to have an unfair hearing, because there is simply no information to support this assertion within the medical documentation provided. For

example, a specific diagnosis or illness, or how those illnesses or disabilities might affect the Tenant's ability to participate in the hearing.

8. I have also considered the factors as found in the Board's Rule 21 and Guideline 1 Adjourning and Rescheduling Hearings:

- the reason for the adjournment and position of the parties;
- the issues in the application;
- any prejudice that may result from granting or denying the request;
- the history of the proceeding including other adjournments or rescheduling;
- the LTB's obligation to adopt the most expeditious method of determining the questions arising in a proceeding that affords to all persons directly affected by the proceeding an adequate opportunity to know the issues and be heard on the matter.

9. The N4 notice was served on November 12, 2025, with a termination date of November 28, 2025, and the L1 application was filed on November 29, 2025. I am satisfied delay prejudices the Landlord, particularly in the circumstances where the Tenant is not paying the ongoing rent. When I consider the reason for the adjournment request, the resulting prejudice to the Landlord, the history of the proceedings, and the Board's obligation to adopt the most expeditious method to determining questions before it, I was not of the view that an adjournment was warranted in the circumstances. Therefore, the hearing proceeded.

The Tenant's Request to Review

Unable to Participate

10. The Tenant requests a review of Order LTB-L-100763-25 issued on February 17, 2026, because he says he was not reasonably able to participate at the February 9, 2026, hearing.
11. The Landlord filed an L1 application pursuant to an N4 notice ('N4 notice') of termination served pursuant to s. 59 of the *Residential Tenancies Act* (the 'Act'). The N12 notice indicated that the Landlord wished to personally use the rental unit and evict the tenant.
12. Order LTB-L-100763-25 issued on February 17, 2026, terminated the tenancy effective February 28, 2026.
13. On May 4, 2026, the Tenant filed a request to extend time and a request to review the February 9, 2026, order. On May 5, 2026, the Board exercised its discretion and extended the time and issued LTB-L-100763-25-IN, staying LTB-L-100763-25, until the matter could be heard.

15. The Tenant Representatives made submissions that the Tenant did not get a copy of the Notice of Hearing in the mail and did not learn about the eviction until Sheriff's enforcement on May 1, 2026, at which time he retained counsel and the request to review was filed. They also submit that the Tenant is suffering from cognitive decline such that he failed to appreciate the consequences of the L1 proceedings.
16. The Board's records indicate that the Tenant was sent a copy of the Notice of Hearing by mail on January 19, 2026. The Tenant was mailed a copy of the Order on February 17, 2026.
17. The Tenant, in the concurrent matter of LTB-L-079622-25 (the 'L2 order'), admitted receipt of the Notice of Hearing for that matter. The Board's records indicate the Notice of Hearing was mailed on December 16, 2025, to the same address as the L1 hearing. Neither file indicates any mail was returned to the Board undeliverable.
18. In *Q Res IV Operating GP Inc v. Berezovs'ka*, 2017 ONSC 5541 (Div. Ct.) (CanLII), the Divisional Court affirmed a party to a Board application is required to exercise reasonable diligence to be aware of and to attend the scheduled Board hearing. In that case, the Court upheld the Board's finding that the landlord failed to take note of the Board's notice of hearing, which the Board served on the parties by regular mail. The Court found that the Board served the notice by mail, that the Act deemed the landlord to have received the notice five days later, and that the Canada Post did not return the Board's mail as undeliverable. It was therefore reasonable for the Board to conclude that the landlord had failed to exercise reasonable diligence to identify and take note of the notice of hearing.
19. When I consider the Tenant Representative's submissions, I am not persuaded that the Tenant exercised due diligence. There is no reliable evidence to conclude that any person accessed the Tenants' mailbox to intercept the Board's Notices of Hearing. By contrast, there is evidence that the Board complied with section 188 of the Act and Rule 5 of the Board's rules of Procedure by mailing a copy of the Notice of Hearing to the Tenant on January 19, 2026. Canada Post did not return the Notices of Hearing to the Board. Therefore, I find that the Board served the Notice of Hearing on the Tenant on January 19, 2026, pursuant to subsection 191(3) of the Act: "a notice or document given by mail shall be deemed to have been given on the fifth day after mailing." Further, the Tenant's Representatives acknowledge the Tenant had received mail from the LTB to the same address just four weeks earlier. No explanation was put forward as to why the Tenant denied receipt of the L1 notice of hearing.
20. In keeping with the Divisional Court's decision in *Q Res IV Operating GP Inc*, I similarly find that it is more likely than not that the Tenant did not take note of the Board's Notice of Hearing package and did not act diligently.
21. The Tenant's Representative also made submissions that the Tenant failed to "appreciate the consequence of the L1 proceedings." However, this submission would suggest the Tenant was aware of the L1 proceedings against him rather than not having been aware of the proceedings at all.
22. The Tenant's Representatives submit that the Tenant is suffering from cognitive decline. He was also suffering from a shoulder injury then and was taking medications which may have impacted his ability to participate.

23. Of note, the Tenant did not testify at the review hearing. I directly referenced this during the hearing stating that Landlord Representative may wish to cross-examine.
24. On any application before the Board, the person who alleges a particular incident or event occurred has the burden of leading sufficient evidence to establish that it is more likely than not that their version of events is true. In this case that burden falls on the Tenant. The Tenant did not testify to his understanding of the L1 proceedings or his position about not having received the Notice of Hearing. Had he done so, the Board would have had the opportunity to assess his ability to understand the proceedings or if there was a plausible reason that the Tenant did not receive the notice of hearing.
25. Further, no evidence was adduced to support the Tenant's claim of a shoulder injury or related medications. The Tenant did not testify and there is no notation about a shoulder injury in the medical documentation tendered, nor any information about the types of medication he might have been taking during this period.
26. As such, I am not persuaded that the Tenant has met his burden of proof to demonstrate that he was unable to participate at the hearing on February 9, 2026.

Lifting of the Stay

27. The Landlord seeks the stay be lifted immediately. The Landlord has been living in Mexico but has needed to come home on three occasions now to address the hearings and review. The Landlord submits the delay in her ability to take possession has been at a significant personal expense. The Landlord has not received any rent since the application was filed, and the rent arrears are now over \$30,000.00.
28. The Tenant submits that the prejudice to the Landlord is not outweighed by the prejudice they face. The Tenant is on a fixed income, and the Landlord has greater financial resources than the Tenant stating that the rental property does not have a mortgage. The Tenant seeks termination of the tenancy at the end of June 2026.
29. I have considered the parties' submissions and find that an appropriate termination date is June 15, 2026. This gives the Tenant an opportunity to seek alternate accommodation while minimizing further prejudice to the Landlord.

It is ordered that:

1. The request to review order LTB-L-100763-25 issued on February 17, 2026, is denied. The order is confirmed and remains unchanged.
2. The interim order issued on May 5, 2026, is cancelled. The stay of order LTB-L-100763-25 is lifted on June 15, 2026.

May 20, 2026

Date Issued

Jane Dean

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.