



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

Citation: Dhaliwal v McLellan, 2026 ONLTB 39875

Date: 2026-05-20

File Number: LTB-L-093843-24-RV

In the matter of: 128 MARINA GROVE CRES
WINDSOR ON N9K1C9

Between: Ravinder Dhaliwal Landlord
Pritpal Bath

And

Kaela McLellan Tenant

Review Order

Ravinder Dhaliwal and Pritpal Bath (the 'Landlord') applied for an order to terminate the tenancy and evict Kaela McLellan (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-093843-24 issued on April 14, 2026.

On May 14, 2026, the Tenant requested a review of the order.

A preliminary review of the review request was completed without a hearing. In determining this request, I reviewed the materials in the LTB's file as well as the audio recording for this hearing.

Determinations:

1. The order under review is an L1 order that terminates the tenancy for arrears and grants a rent abatement for maintenance and repair issues.

Procedural fairness

2. The hearing of this matter took place on two hearing dates. At the outset of the first hearing date the Tenant requested an adjournment because her legal representative had withdrawn 13 days before. This request was denied mainly because the Member was not satisfied that the Tenant had made sufficient efforts to secure a new representative. The Member also noted that the Tenant's former representative had already prepared, served, and filed the Tenant's evidence. The Tenant submits that she was denied procedural fairness and natural justice by the Member's denial of her adjournment request.

3. In the review request the Tenant submits that one of the reasons for her adjournment request was that she was ill on the date of the hearing. When the Tenant made the request at the hearing she did not say that she was unable to proceed because she was unwell; she said she could not proceed without her representative.
4. I am not satisfied that the Member erred by denying the adjournment request. The Member gave sound reasons for the denial. The decision to grant or deny an adjournment request is a discretionary one that is entitled to deference. There is no indication that the Member exercised this discretion unreasonably.
5. The Tenant submits that the Member failed to give her “procedural accommodation or assistance” during the hearing. The Tenant did not identify that she has any need for accommodations of any disabilities before or at the hearing or in this review request. The Member guided the Tenant through the presentation of her evidence during the hearing. This was sufficient assistance.
6. The Tenant submits that the Member failed to “fully review” or consider her evidence. The Tenant submits that the hearing proceeded primarily through issue summaries without properly reviewing the contents of the submitted evidentiary materials. The hearing recording does not support this submission. On the first hearing date, the Member guided the Tenant through her list of issues, methodically addressing each issue that was within the relevant limitation period and going over the Tenant’s evidence relevant to each issue. The only evidence that the Member refused to accept was a package that had been submitted by the Tenant after the first hearing date, to which the Tenant wished to refer on the second hearing date. This was refused because the Tenant had completed her evidence in chief on the first hearing date and it was not appropriate to re-open her evidence in chief on the second hearing date.
7. The Tenant submits that the Member unfairly allowed the Landlord to rely on evidence that was served and filed late while the Tenant was denied the same opportunity. As noted above, the Tenant’s evidence that was filed after the Tenant gave her evidence in chief was properly refused. The Member accepted the Landlord’s evidence that was filed one week before the second hearing date. This was not improper or unfair. The Landlord had not yet given any evidence in chief. The evidence was filed one week before the hearing, as required by the LTB’s Rules. The Tenant points out in this review request that an interim order issued on February 11, 2025 required the parties to file their evidence no later than February 24, 2025. The Tenant did not raise this at the hearing and this interim order was not raised as a reason to exclude either party’s evidence. Based on the foregoing I am not satisfied that the Member applied different rules to the parties respecting their evidence and when it was filed.

New evidence

8. The Tenant asserts that there is significant new evidence that became available after the disclosure deadline and hearing dates. The Tenant submits that she obtained updated photographs dated March 23, 2026 documenting ongoing maintenance deficiencies. The Tenant also submits that she has obtained further evidence about utilities payments, rent

payments, arrears calculations, harassing conduct by the Landlord and prior police involvement relating to the Landlord.

9. New evidence is only a ground for review in situations where the new evidence was material to the issues in the hearing and where it was not available on the date of the hearing with the exercise of due diligence. In this case the Tenant seeks to adduce photographs that were available the week before the hearing but likely would not have been admitted into evidence because the Tenant had presented her case in chief before these photographs were taken. The Tenant has not asserted that these photographs were part of the package of evidence that she sought to present at the second hearing date. More importantly, the Tenant did not attach any of these photographs to the review request and she did not describe what is depicted in the photographs. Similarly the Tenant has not provided any details about the evidence of utilities and rent payments, etc. Because the Tenant has not sufficiently described this “new evidence,” I am not satisfied that any of it is material to the issues in the hearing and, with respect to the non-photographic evidence, I am not satisfied that it was not available on the date of the first hearing with the exercise of due diligence.

Relief from eviction

10. The Tenant submits that the Member’s conclusion that the Tenant would not likely comply with a payment plan is not supported by the evidence. The Tenant submits that the Member failed to consider evidence of the Tenant’s history of compliance with Board payment obligations. The Member denied the Tenant’s request for a payment plan partially because the Tenant’s payment history as a whole did not support that the Tenant would abide by a payment plan. The Member noted that the Tenant had been paying the rent recently but that she had made little progress in paying down the arrears. The Member also considered that the plan the Tenant proposed would take more than four and a half years to pay off the arrears.
11. The decision whether to grant relief from eviction and, if so, what relief to grant, is a discretionary one. An exercise of discretion will not be interfered with on review if it is reasonable. In this case the Member’s decision not to grant the Tenant’s proposed payment plan was reasonable. I am therefore not satisfied that the Member seriously erred by denying the Tenant’s proposed payment plan.

Bias

12. The Tenant submits that the “cumulative procedural issues throughout the hearing” created a reasonable apprehension of bias.
13. In *R. v. Fraser*, [2023] 2 SCC 45 (CanLII), at paragraph 26, the Supreme Court of repeats the traditional legal test to determine whether a reasonable apprehension of bias exists. The Court writes: “what would an informed person, viewing the matter realistically and practically ... conclude? Would he think that it is more likely than not, that [the trier of fact] whether consciously or unconsciously, would not decide fairly?”

14. In this case the facts upon which the Tenant relies for the submission that there is a reasonable apprehension of bias do not exist. As discussed above, there were no procedural issues with the hearing and so there could be no cumulative effect of these alleged issues. Applying the legal test for bias to the review request, I find that there is no basis upon which to conclude that there is a reasonable apprehension of bias with respect to the order or the proceedings.

Disposition

15. 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 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-093843-24 issued on April 14, 2026 is denied. The order is confirmed and remains unchanged.

May 20, 2026
Date Issued

Renée Lang
Vice Chair, 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.