



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

Citation: 1520158 Ontario Inc v Ben-Moodie, 2026 ONLTB 40525

Date: 2026-05-22

File Number: LTB-L-065530-25-RV

In the matter of: 2, 65 PROGRESS AVE
SCARBOROUGH ON M1P2Y7

Between: 1520158 Ontario Inc Landlord

And

Mikheal Ben-Moodie Tenants
Adriana Ben-Moodie

Review Order

1520158 Ontario Inc (the 'Landlord') applied for an order to terminate the tenancy and evict Mikheal Ben-Moodie and Adriana Ben-Moodie (the 'Tenants') because:

- the unit was given to the Tenants for the term of the Tenant's employment which has now ended.

This application was heard on October 27, 2025 and resolved by order LTB-L-065530-25 issued on December 5, 2025.

On January 2, 2026, the Tenants requested a review of the order and that the order be stayed until the request to review the order is resolved.

On January 6, 2026 interim order LTB-L-065530-25-RV-IN was issued, staying the order issued on December 5, 2025 and directing the matter to a review hearing.

This review request was heard by videoconference on January 22, 2026. The Landlord's agent Tracy Thibodeau, the Landlord's legal representative Eric Steiman, the Tenants and the Tenant's legal representative Marc Z. Goldgrub attended the hearing.

Determinations:

1. The order issued on December 5, 2025 grants the Landlord's application and terminates the tenancy effective January 31, 2026. The Landlord's notice of termination was served pursuant to subsection 58(1) 3. of the *Residential Tenancies Act, 2006* (the Act) which states:

- 58** (1) A landlord may give a tenant notice of termination of their tenancy on any of the following grounds:
3. The tenant was an employee of an employer who provided the tenant with the rental unit during the tenant's employment and the employment has terminated.
2. The Tenant's request for review asserts that the order contains a serious error on the following two grounds:
- That the Board incorrectly applied subsection 58(1) 3. of the Act, because the Tenants are not employees of the Landlord, but rather "contractors".
 - That the Board erred in not applying mandatory relief from eviction pursuant to subsections 83(3) (a) (b) or (c) of the Act.
3. As explained below, I am not satisfied that there is a serious error in the order or that a serious error occurred in the proceedings. The Tenant's request for review is therefore denied.
4. With respect to the first ground for review, the Tenants argue that they are not employees of the Landlord, but rather "contractors" as per their agreement with the Landlord.
5. The property is located in a commercial storage space with a residential unit located above the main office of the commercial complex. The Tenants rented the residential space from the Landlord on September 25, 2020, and in doing so, were given the right to reside in the residential space and provide "night watch (security)" for the residential complex. As further stated in the agreement, the Tenants were given a rent discount of \$400.00 per month and were advised that if their employment / services with the Landlord was to terminate, that so would their right to occupy the residential space.
6. Although the agreement between the parties is identified as a "contract" agreement and not a "employment" agreement, the Member ultimately applied section 202 of the Act and found that the intention of the parties at the commencement of the tenancy was that the Tenants were given the right to occupy the residential portion of the complex so long as they continued to provide work / services to the Landlord.
7. Section 202 of the Act states:
- 202** (1) In making findings on an application, the Board shall ascertain the real substance of all transactions and activities relating to a residential complex or a rental unit and the good faith of the participants and in doing so,
- (a) may disregard the outward form of a transaction or the separate corporate existence of participants; and
 - (b) may have regard to the pattern of activities relating to the residential complex or the rental unit.

8. In paragraphs 12 and 14 of the order, the presiding Member states the following:

12. The parties agree on the majority of the facts in this application, specifically that there was a contractor agreement executed, the agreement included a clause about the Tenants' requirement to vacate at the termination of the contract, and that the Landlord terminated the contract on July 10, 2025. The Tenants rely on the strict definition of contractor vs. employee to argue that section 58(1)(3) of the Act does not apply to contractors. The term employee is not defined in section 2 the Act.
 14. Given the evidence of the parties, and taking into account section 202 of the Act, I find that the true substance of the relationship was akin to employee-employer found in section 58(1)(3) of the Act. I make this finding as the parties fully contemplated the relationship and the potential circumstances upon termination of the relationship. The contract between the parties is clear on its face that the tenancy is contingent on the Tenants working for the Landlord and considers what occurs if the contract is terminated. While the Act may not directly deal with contractors, I find that in this case the parties understood the tenancy was wholly based on the Tenants working for the Landlord. The reason for the contract ending is irrelevant to the final determination surrounding section 58(1)(3).
9. I find that the presiding Member's interpretation of the nature of the tenancy agreement and finding that the termination of the Tenant's employment was bound by subsection 58(1) 3. of the Act to be reasonable. As stated in the order, the Act does not define or distinguish between an employee or contractor of the Landlord. However, the evidence before the Board was that the Tenants agreed to provide services / work to the Landlord in the residential complex for the right to occupy the residential unit. The Member's findings are rational and not arbitrary or capricious and are therefore entitled to deference.
10. At the review hearing, the Tenant's legal representative gave submissions attempting to argue that the tenancy agreement / employment contract was a "sham". The Board's review process is not an opportunity for a party to re-argue a case. The Tenants did not dispute the terms or contents of the contract with the Landlord at the merits hearing and simply relied on the fact that they did not meet the definition of an employee. Therefore, I will not consider these arguments.
11. With respect to the second ground for review that the order does not provide sufficient reasons for relief from eviction, I am also not satisfied that the order contains a serious error.
12. In the review request and at the hearing the Tenants argued that their termination of employment was due to reprisal from the Landlord because they reported concerns of the rental unit to the Toronto Fire Services and that as such the Landlord was also in serious breach of their obligations under the Act.
13. Paragraphs 16-19 of the order clearly address the Tenant's request for mandatory relief from eviction and provides sufficient reasons for denying the request. The reasons are based on the evidence adduced at the hearing.
14. In the order, the presiding Member finds that on a balance of probabilities that the Landlord has resolved the fire code violations and that this evidence was based on the Landlord's unchallenged oral testimony. The order further finds that the termination of employment / tenancy was not due to reprisal but rather accepting the fact that the Landlord has opted for a change in their operations of the residential complex.

15. As the Tenant's were the parties raising the concerns under section 83 of the Act, the Tenant's bear the onus of proving these alleged breaches on a balance of probabilities.
16. In my view, the order provides sufficient reasons for the Member's findings. The decision of the Member falls within a reasonable range of possible and acceptable outcomes and the findings of the Member are therefore entitled to deference.
17. Although the Tenants do not agree with the outcome of the December 5, 2025 order, the Board's review process is not an opportunity for a party to re-argue or make further submissions on the matter in the hopes of a better outcome.
18. In the absence of a demonstratable error in the December 5, 2025 order or that a serious error occurred in the proceedings, the request for review must be denied.
19. Given the delay since the original eviction order was issued and the start of the proceedings, I find that it would be unfair to the Landlord to delay lifting the stay. The Tenants have ultimately had sufficient notice of their tenancy potentially terminating and therefore have already been given ample time to search for or secure alternate housing.

It is ordered that:

1. The request to review order LTB-L-065530-25 issued on December 5, 2025, is denied. The order is confirmed and remains unchanged.
2. The interim order issued on January 6, 2026, is cancelled. The stay of order LTB-L-065530-25 is lifted immediately.

May 22, 2026
Date Issued

Fabio Quattrociochi
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.