



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

Citation: Torbill Holdings v Morey, 2026 ONLTB 41209

Date: 2026-05-28

File Number: LTB-L-022965-24-RV

In the matter of: 207, 538 PITT ST
CORNWALL ON K6J3R6

Between:	Torbill Holdings	Landlord
And		
	Kelly Ann Morey	Tenant

Review Order

Torbill Holdings (the 'Landlord') applied for an order to terminate the tenancy and evict Kelly Ann Morey (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-022965-24 issued on April 22, 2026.

On May 21, 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. In the review request, the Tenant asserts that the order contains errors of law, unreasonable findings of fact, procedural unfairness and material inconsistencies in the April 22, 2026 order.
2. 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.
3. I have reviewed the application record and have listened to relevant portions of the hearing recordings from February 2, 2025 and February 18, 2026.

The Lawful Rent

4. The Tenant states that the Member made errors in the calculation of lawful rent and arrears and these inconsistencies render the order unclear and difficult to comply with.

5. I note, on May 27, 2026, the presiding Member issued an amended order to correct the clerical errors related to rent and arrears. As such, this resolves this portion of the review request.

The Pest Control Issue

6. In the request, the Tenant asserts that the Member conflated “reasonable efforts” with “minimal efforts” related to the presence of pests in the rental unit.
7. The hearing recording confirms the parties provided extensive submissions with respect to the pest issue and the order addresses the roach issues from paragraphs 42 to 59. The Tenant takes the position the Member did not apply the appropriate legal test with respect to the Landlord’s maintenance obligations under the Act.
8. I disagree and the answer lies not only in the total analysis of the issue but specifically in paragraph 58 where the Member writes:

In my view the Landlord has attempted to make reasonable effort to address the issue in accordance with the Div Crt finding in *Onyskiw* but the Tenant has cancelled treatments and prevented the Landlord agent from entering the rental unit.

9. The order clearly demonstrates that the Member considered the circumstances surrounding the roach issues, the relevant dates, the response of the Landlord, and the Tenant’s interference with the Landlord’s efforts. The Member considered and applied the appropriate legal test.
10. Whether or not there continued to be the presence of roaches is considered by the Member but it was the Tenant’s behaviour that frustrated the Landlord’s efforts to manage the issue the resulted in the ultimate outcome.
11. With respect to the hearing member’s finding of facts, I find that they are supported by the evidence both in the order and the recordings. While the Tenant clearly disagrees with the decision, the purpose of the review process is not to provide parties with an opportunity of relitigating the issues. I would not interfere with the assessment of the evidence by the hearing member, who had the opportunity of hearing the evidence in its totality.

The Procedural Fairness Concerns

Did the Member consider all relevant evidence?

12. The Tenant takes issue with the Member’s finding that she provided insufficient evidence related to claims related to the daughter’s health and the Tenant’s ability to pay \$200.00 per month for arrears of rent.

13. Both the hearing recording and the order reflect the Member did consider the evidence related to the Tenant's claims, including her *viva voce* evidence. However, it was the sufficiency of the evidence the Member weighed, not the lack of evidence as suggested in the review request as can be seen in paragraphs 107, 109, 110, 113, 116 and 120 of the order. It is clear the Member considered the Tenant's oral evidence on her circumstances in the absence of documentary evidence.

14. The Member, for example at around 1:38:05 of the February 18, 2026 hearing recording states:

testimony is still evidence...

to which the Tenant's representative replies:

this is true.

15. The Tenant knew or ought to have known that any documentary evidence she intended to rely on at the hearing was due on or before October 31, 2024 as per the October 17, 2024 interim order and as addressed by the Member at the February 20, 2025 hearing as per the Adjournment Sheet.

16. In my view, the Tenant's failure to provide relevant documentary evidence to support her oral testimony lies with the Tenant and her representative.

17. The Member considered all evidence to make his final determination. The order sets out adequate reasons for the determinations made by the presiding Member. The Member's findings of fact are entitled to considerable deference. I will not interfere with the assessment of the evidence by the Member of first instance, who had the opportunity of hearing the evidence in its totality.

Did the Member weight the parties' circumstances inappropriately?

18. In the review request, the Tenant suggests that the Member may have considered information communicated privately by the Landlord.

19. The Tenant also takes issue with paragraph 121 of the order, where the Member states that he considered the parties' submissions and weighed prejudice against both parties given their circumstances which lead to granting the Landlord's application with delayed eviction.

20. The Tenant states that the Landlord refused to provide specifics related to their circumstances and draws the conclusion that the Member may have entertained private communications.

21. The Tenant's claims are not supported by the Board record. The Member, at no time, left the hearing to engage in private consultation with the Landlord party, nor does the record show any post hearing submission related to this claim.

22. The Tenant's claim that the Member did not hear any circumstances from the Landlord to weight the prejudice is incorrect. As part of the s.83 analysis, the Member considered the Landlord's position related to the significant arrears, the Tenant's choice to pay other expenses, effect of a payment plan and these all relate to the Landlord's circumstances.
23. Even if the Landlord declined to provide detailed financial reports, the Tenant's representative did not oppose this or ask the Member to draw any adverse inference on this issue. However, in the totality of the issues raised, I do not believe this would have changed the outcome of the order.
24. The Member's order provides a detailed s.83 analysis and the ultimate decision is a discretionary decision. The decision not to grant relief in the form the Tenant requested is based on the evidence presented at the hearing. Having considered those circumstances, the order indicates that the Member determined that would be unfair to the Landlord and denied the relief requested but extended the eviction to June 30, 2026.
25. Under all of the circumstances here, it cannot be said that the Member's decision was unreasonable.

The credibility finding

26. The Tenant believes that the Member made an unreasonable credibility finding related to the Tenant's first statement that she withheld rent but held the funds followed by her choice to use the funds elsewhere.
27. The Tenant states that the Member failed to consider the passage of time and treated the fact that she no longer had the funds which impacted her credibility without proper analysis. The Tenant relies on *Fuamba et al. v. Irving et al.*, 2024 ONSC 4587 to support this claim.
28. In this present case, I do not find this relevant or applicable.
29. The Member's may have considered the Tenant's two reasons non persuasive, but the main fact the Member considered was that the Tenant failed to pay the arrears owing to the Landlord as per paragraph 104 of the order. Why the Tenant withheld the rent, whether the Tenant held the funds and how she ultimately used them was not what led to the ultimate outcome of the order. It was the Tenant's continued failure to pay the rent that led, in part, to the Member's decision.
30. The Member's finding of fact was not linked to the reason for the one-year interval and financial circumstances. Rather, it was based on the arrears that the Tenant did not dispute. At paragraph 118 of the order the Member states:

The Tenant provided inconsistent testimony with regards to the arrears, whether she withheld rent to force the Landlord to address maintenance issues, or she lent the money to her parents the problem here is that the requirement to pay the rent

on time is a contractual obligation found in the lease agreement. The Landlord should not have to come to the Board to enforce this requirement under the lease.

31. It is clear, the Member's decision was based on factors far greater than this issue of credibility hence I do not find *Fuamba et al*, applicable in this circumstance.

Did the Member conduct a procedurally fair hearing?

32. Having reviewed the relevant portions of the hearing recording, I find the Member ensured a procedurally fair hearing to the parties. The Tenant had the benefit of legal representation and the Tenant's evidence was clearly considered by the Member with respect to her ODSP income and other claims. As previously stated, the Member heard the Tenant's oral evidence.
33. The hearing recording also confirms that the Tenant was afforded considerable time to provide her s.82 and s.83 issues, led evidence and challenged the submissions and evidence of the Landlord. The Tenant fully engaged her right to participate and with the benefit of legal representation. I acknowledge that the Member, from time to time, interrupted the Tenant when the Tenant blurted out accusations and statements during the hearing. At one point in the hearing recording, the Tenant interrupted to correct the Landlord's statement about pest control and the Member allowed her to speak on the issue, despite the inappropriateness of the interruption.
34. The Tenant's claim that the Member declined to consider relevant evidence is wholly unfounded. Both the recordings and the order demonstrate the Member considered all oral and documentary evidence properly led at the hearing.
35. Given the above, I find the order does not contain a serious error and the Tenant was afforded a procedurally fair hearing. Accordingly, the Tenant's review request is denied.
36. This order contains all of the reasons for the decision within it. No further reasons shall be issued.

It is ordered that:

1. The request to review order LTB-L-022965-24 issued on April 22, 2026 is denied. The order is confirmed and remains unchanged.

May 28, 2026
Date Issued

Dana Wren
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.