



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

Citation: Akelius Canada v Moniz, 2026 ONLTB 41668

Date: 2026-05-25

File Number: LTB-L-086609-24-RV

In the matter of: 302, 1 Claude Ave
Toronto ON M6R2T5

Between: Akelius Canada Landlord

and

Caesar Moniz Tenant

and

Johnny Voulgaris Unauthorized
Unknown Occupant(s) Occupant

Review Order

Akelius Canada (the 'Landlord') applied for an order to terminate the tenancy of Caesar Moniz (the 'Tenant') and evict Johnny Voulgaris and Unknown Occupant(s) (the 'Unauthorized Occupant') because the Tenant transferred occupancy of the rental unit to the Unauthorized Occupant without the Landlord's consent. The Landlord also applied for compensation by the unauthorized Occupant for the use of the rental unit.

This application was resolved by order LTB-L-086609-24 issued on April 17, 2026.

On May 15, 2026, the Unauthorized Occupant requested a review of the order.

A preliminary review of the review request was completed without a hearing.

Determinations:

1. The Unauthorized Occupant alleges that there is a serious error in the order and that a serious error occurred in the proceedings.
2. By way of background, the matter was heard on April 8, 2025 and January 7, 2026. The Unauthorized Occupant was represented by Sean O'Connor on April 8, 2025 and represented by Merve Ozdemir on January 7, 2026. Sean O'Connor signed into the hearing on January 7, 2026 and observed the proceedings. During the hearing on

January 7, 2026, after the Unauthorized Occupant gave oral testimony, the Unauthorized Occupant attempted to call Sean O'Connor as a witness. The presiding Member refused to allow the witness.

3. The Unauthorized Occupant submits that the presiding Member seriously erred in refusing to allow the Unauthorized Occupant's former legal representative give evidence at the hearing.
4. The decision whether to allow a legal representative or former legal representative to give evidence at a hearing is a discretionary decision. The Board will not exercise its discretion to review these types of decisions where the result is within the range of reasonable, acceptable outcomes. The presiding Member's use of discretion is entitled to considerable deference. I am not satisfied that the Member's use of discretion was unreasonable. In my view, it would have been highly prejudicial to the Landlord to allow Mr. O'Connor to give oral testimony after he had been privy to the witness testimony of not only the Unauthorized Occupant, but also the Landlord's witness.
5. Additionally, Mr. O'Connor signed on with the Unauthorized Occupant at the start of the hearing on January 7, 2026 and listened to the testimony of the Unauthorized Occupant before requesting to give evidence. Mr. O'Connor is a licensee and therefore ought to have been familiar with the process of exclusion of witnesses. If he sought to give evidence at the hearing on January 7, 2026, he ought to, at the very least, have excluded himself from the proceedings at the start of the hearing on January 7, 2026 rather than sign on and listen to the testimony of the Unauthorized Occupant.
6. It appears that the review request asks me to consider a rule that doesn't exist, particularly Rule 32. I note that the Board's Rules of Procedure only contain 27 rules. However, out of an abundance of caution and in the event that the representative made a typo rather than quoted a rule that does not exist, I have cross-referenced the stated proposition of Rule 32 with the Board's Rules of Procedure, the Board's Practice Directions as well as the Board's Interpretation Guidelines. Albeit the lengthy review of these materials, I am unable to locate any Rule or guideline which provides factors the Board will consider when determining whether to exercise their discretion to permit a legal representative to give evidence.
7. Additionally, I note that the representative states in the request that this is stated in the "commentary to the Rule". I am unaware of the existence of any commentary to the Board's Rules or what the representative is referring to in this case.
8. The request also alleges that the presiding Member seriously erred by failing to consider the entire nature of the transaction and facts surrounding the application. What it appears the Unauthorized Occupant is alleging is that the presiding Member should have considered all of the circumstances, including how long the Unauthorized Occupant has lived in the rental unit and that he has lived in the unit since the onset of the tenancy.
9. The Member did consider the length of the tenancy in determining whether to delay eviction. Although the Unauthorized Occupant may have lived in the rental unit with the

Tenant for 16 years, the Board does not have discretion to order the Landlord to enter into a tenancy with the Unauthorized Occupant nor does the Board have discretion in these circumstances to refuse eviction as section 83 of the *Residential Tenancies Act, 2006* (the 'Act') is applicable to applications for an order evicting a tenant, not eviction of an occupant.

10. Additionally, the Member's findings with respect to the issues in the application were not unreasonable. That the Landlord did not seek to confirm that it was the Tenant living in the rental unit when they purchased the property does not somehow lead to a finding that the Landlord knew that the Tenant had transferred the tenancy to the occupant. There is nothing in the Act that states that the Member was required to consider what steps the Landlord could have taken to learn of the information prior to when they ultimately did. The Member correctly considered all of the evidence before her to determine when the Landlord became aware that the tenancy had been transferred to the Unauthorized Occupant. The Member determined that the Landlord became aware of the transfer within 60 days of filing the application and she provided sufficient reasons for her finding.
11. The remainder of the review request expenses the Unauthorized Occupant's disagreement with the determinations. The Board's review process is not an opportunity for a person to re-argue an application that has been finally determined. Although the Unauthorized Occupant disagrees with the presiding Member's findings, the presiding Member was in the best position to admit and consider the parties' relevant evidence and submissions, and to make findings of credibility.
12. The order sets out in sufficient details why the adjudicator arrived at her conclusions. The order, for example, identifies that it was the Unauthorized Occupant's own evidence that he did not tell the Landlord that the Tenant had vacated and that he was unaware if the Tenant had told the Landlord and that the Landlord provided credible testimony that they only became aware on September 12, 2024. The order is therefore an adequate order, and it is evident that the hearing Member's findings of fact are rationally connected to the evidence adduced during the hearing. Put differently, the hearing Member's findings of fact are not capricious.
13. 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.

It is ordered that:

1. The request to review order LTB-L-086609-24 issued on April 17, 2026 is denied. The order is confirmed and remains unchanged.

May 25, 2026
Date Issued

Candace Aboussafy
Member, Landlord and Tenant Board

Toronto ON M7A 2G6

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.