



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

Citation: 39 East Liberty Residences LP v Bain, 2026 ONLTB 41815

Date: 2026-05-26

File Number: LTB-L-046905-25-RV

In the matter of: 1117, 15 SOLIDARITY WAY
TORONTO ON M6K0G8

Between: 39 East Liberty Residences LP Landlord

And

Maggie Bain Former
Graham Langer Tenant

Review Order

39 East Liberty Residences LP (the 'Landlord') applied for an order requiring Maggie Bain and Graham Langer (the 'Former Tenant') to pay the Landlord's reasonable out-of-pocket costs that are the result of the Former Tenant's conduct or that of another occupant of the rental unit or someone the Former Tenant permitted in the residential complex. This conduct substantially interfered with the Landlord's reasonable enjoyment of the residential complex or another lawful right, privilege or interest.

This application was resolved on consent by order LTB-L-046905-25 issued on April 23, 2026 pursuant to a hearing held on April 14, 2026 at which the Landlord's Representative, Sara Mathew, and the Former Tenant's Representative, Alexandra T. Weir, student-at-law, attended.

On May 24, 2026, the Former Tenant requested a review of the order.

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

Determinations:

1. The Former Tenant submits that there was a serious error in the order or proceedings and that they were unable to reasonably participate in the hearing. Specifically, the Former Tenant submits they did not authorize their representative to enter into a consent order or settlement, and did not attend the hearing as they were told they did not need to as the matter would be handled on behalf of the Former Tenant.
2. The Divisional Court has stated that "parties ought not to be easily able to revisit Board orders that have been made on consent. The effective resolution of matters that come before the Board will be greatly impaired if parties can continually seek to revisit issues

that they have earlier agreed to resolve.” (*Trust Construction Corporation v. McKie*, 2017 ONSC 4702)

3. The Divisional Court also stated that “The policy of the courts is to promote settlement. The discretion to refuse to enforce a settlement should be exercised rarely...agreements, and joint submissions, are serious and they should not be easy to simply overturn. To allow parties, after the fact, to raise claims they could have or allow second thoughts after an agreement is struck would cause unnecessary waste on our Tribunals and Courts. No one, even with an order, would feel safe to rely on what has been agreed to. This would not be a just result.” (*Gent v. IMH Pool III LP*, 2017 ONSC 7230 CanLII)
4. The review request does not deny that the Former Tenant’s Representative, was in fact a legal representative of the Former Tenant. It states only that the Former Tenant did not authorize any representative to enter into a settlement agreement or consent order. There is therefore no basis to find that there was an error in the LTB finding that the Former Tenant’s Representative had authority to represent the Former Tenant at the hearing.
5. The review request might be interpreted to be alleging that the LTB should cancel this consent order and re-hear this matter on the basis of ineffective assistance of counsel.
6. In *D.W. v. White*, 2004 CanLII 22543, the Ontario Court of Appeal indicated that the ground of ineffective assistance of counsel should be available in the rarest of cases such as cases involving some overriding public interest, cases engaging the interests of vulnerable persons like children or persons under a mental disability, or cases in which one party to the litigation is somehow complicit in the failure of counsel opposite to attain a reasonable standard of representation.
7. This case is not rare. There is no indication that this case is of overriding public interest. The Former Tenant has not identified themselves as vulnerable and there is no allegation that the Landlord or the Landlord’s representatives have been complicit in the failure of the Former Tenant’s Representative to effectively represent the Former Tenant. I am therefore not satisfied that ineffective assistance of counsel is sufficient ground to support a review request in this matter.
8. The review request does not identify the party that advised the Former Tenant that they did not need to attend the hearing. I am left to presume by implication that this would be the Former Tenant’s Representative. It is both unclear why the Former Tenant would not need to be present to give evidence on their own behalf if they in fact anticipated a contested hearing as their review request implies, nor is there an allegation that anything prevented the Former Tenant from attending the hearing contained in the request. To the extent that this is a further argument that ineffective assistance of counsel prevented the Former Tenant from reasonably participating in the hearing, I find that the same reasoning outlined above applies.

9. On the basis of the submissions made in the request, I am not satisfied that there is a serious error in the order or 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-046905-25 issued on April 23, 2026 is denied. The order is confirmed and remains unchanged.

May 26, 2026
Date Issued

Benjamin Seigel
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.