



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

Citation: Bernhard v Jamieson, 2026 ONLTB 42756

Date: 2026-05-28

File Number: LTB-L-005019-26-RV

In the matter of: Unit A, 205 WILLIAM ST
BRANTFORD ON N3T3L6

Between: Sonja Bernhard Landlord

And

Mark Jamieson Tenant

Review Order

Sonja Bernhard (the 'Landlord') applied for an order to terminate the tenancy and evict Mark Jamieson (the 'Tenant') because:

- the Landlord in good faith requires possession of the rental unit for the purpose of residential occupation for at least one year.

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was resolved by order LTB-L-005019-26 issued on March 27, 2026 pursuant to a hearing held on March 11, 2026 attended by the Landlord, the Landlord's Legal Representative, Jackie Struthers, the Landlord's Witness, Gavin Charman, and the Tenant.

On April 9, 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 Tenant submits that there is a serious error in the order or proceedings, and that the Tenant was not reasonably able to participate in the proceedings. The Tenant also submits that there has been a material change in circumstances since this matter was heard.

Participation in the Hearing

2. The Tenant submits they were not reasonably able to participate in the proceedings as they were self represented, where the Landlord was represented by legal counsel. The Tenant's request submits that due to the complexity of issues, a lack of legal training, and his medical condition he was unable to effectively present his case. In particular, the Tenant submits that he was unable to properly organize or present his medical evidence, connect the impacts on his health to legal issues, and respond to the Landlord's submissions.
3. I have listened to the hearing recording. The Tenant actively participated throughout the hearing, presenting evidence and making submissions that addressed the pertinent legal issues. The Tenant responded to questions in an intelligent fashion and showed an understanding of the legal issues at play. I find that the Tenant was fully able to participate in the hearing process, and there was nothing procedurally unfair in the manner in which the hearing was conducted.

Serious Error

4. The Tenant submits there is a serious error in the order as the order did not meaningfully address the Tenant's immunocompromised status, medical necessity to have safe housing, the impact of smoke exposure on the Tenant, and the Landlord's failure to remediate the smoke exposure.
5. The order addresses the Tenant's testimony in relation to his health conditions at paragraph 17 of the order, and in paragraph 24 notes that this evidence is accepted and considered in determining that an extended termination date approximately 3 months following the issuance of the order is appropriate in the circumstances.
6. The order also addresses the Tenant's testimony as to his difficulty in finding housing due to his income in paragraphs 17 and 18 and notes that this difficulty is considered in making the determination as to the termination date in paragraph 24.
7. At paragraphs 19 to 21 of the order the Member outlines in detail their determinations as to the issues presented by the Tenant in respect of smoking in the rental unit, including efforts at remediation made by the Landlord.
8. The order sets out detailed reasons for the determinations made by the Member and establishes a reasonable basis for those determinations. Reasonable determinations will not be interfered with on review.
9. It is within the discretion of the hearing Member after hearing all of the evidence and submissions from both sides at the hearing to make a determination as to the appropriate date of termination of the tenancy. The order reveals a reasonable basis for the Member's decision to extend the termination of the tenancy to June 30, 2026, but not beyond. The reasonable exercise of discretion will not be interfered with on review.

10. While the Tenant may disagree with this determination, this is not a basis for review.

Material Change in Circumstances

11. A material change in circumstances after the issuance of an order is not considered a basis to review an order absent a serious error. While a party may request to review an order on the basis of new evidence not available at the time of the hearing, that is only in respect to circumstances that were present at the time of the hearing.
12. Allowing the review of orders based upon changes to parties' circumstances after a matter has already been heard and an order issued would have the potential to extend matters indefinitely and would prevent the Board from fulfilling its obligations to conduct expeditious proceedings pursuant to section 183 of the *Residential Tenancies Act*, 2006 (the "Act").
13. On the basis of the submissions made in the request, I am not satisfied that there is a serious error in the order, 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-005019-26 issued on March 27, 2026 is denied. The order is confirmed and remains unchanged.

May 28, 2026
Date Issued

Benjamin Seigel
Member, Landlord and Tenant Board

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