



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

File Number: LTB-T-087989-25-RV

In the matter of: 6 HIGGINS AVE
Thorold ON L3B0L5

Between: Brice Steven kenmogne Tenant

And

Estelle Peney Fokou Landlord

Review Order

Brice Steven kenmogne (the 'Tenant') applied for an order determining that Estelle Peney Fokou (the 'Landlord') :

- substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenant or by a member of their household.
- harassed, obstructed, coerced, threatened or interfered with the Tenant.

This application was resolved by order LTB-T-087989-25 issued on April 29, 2026. The Landlord did not attend the hearing on April 7, 2026.

On May 11, 2026, the Landlord 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 adjudicative record.

Determinations:

1. The Landlord alleges that they could not attend the April 7, 2026, hearing because they were scheduled to work that day and were unable to take the time off or make alternative arrangements.
2. On the basis of the submissions made in the request, I am not satisfied that the Landlord was not reasonably able to participate in the proceeding.
3. The Board will generally refuse requests where the requestor's absence was the result of negligence or a lack of due diligence, or it finds no reasonable explanation for the failure to attend. I am not satisfied that the Landlord has provided a reasonable explanation for their failure to attend, and I find that it is more likely than not that their absence was the result of negligence or a lack of due diligence.

4. This case is similar to the Divisional Court decision in *Q Res IV Operating GP Inc. v Berezovs'ka*, 2017 ONSC 5541. In that case the Divisional Court upheld the LTB's decision to deny a review because the Landlord was negligent in handling their mail. At paragraph 8 the Court notes that "if parties are not diligent in dealing with legal proceedings, then they cannot demand that a Tribunal waste its resources by rehearing matters a second time. To allow this would undermine the ability of the administration of justice to deliver timely, cost-effective and final orders".
5. The Landlord also alleges that the order contains a serious error because the order did not consider any evidence from the Landlord. They also allege that the lawful rent is incorrectly listed in the order.
6. Interpretation Guideline 8 - Review of an Order states:

A review is not an appeal or an opportunity to change the way a case was presented.

The purpose of the review process is not to provide parties with an opportunity of presenting a better or different case than they did at first instance. There is nothing in the record or in the request for review to support a determination that the Member applied improper principles in assessing the evidence introduced or that there was insufficient evidence before the Board to support its conclusions. I would not interfere with the assessment of the evidence by the Member of first instance, who had the opportunity of observing the witnesses and of hearing the evidence in its totality. TSL-51694-14-IN-RV (Re), 2015 CanLII 23959 (ON LTB) at para 10

7. It is not an error for the Board to make determinations based on the uncontested evidence where the other party does not participate in the proceedings.
8. The amount of the lawful rent does not affect the outcome. The Landlord submits they collected a rent deposit of \$825.00 and that is the amount that has been ordered repaid to the Tenant along with interest.
9. Since none of the other findings resulted in an award of damages, there is nothing to review in the order. The findings of fact are entitled to deference, particularly since they are uncontested.
10. 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 and that the Landlord was not reasonably able to participate in the proceeding.

It is ordered that:

1. The request to review order LTB-T-087989-25 issued on April 29, 2026 is denied. The order is confirmed and remains unchanged.

May 29, 2026
Date Issued

Robert Patchett
Vice Chair, 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.