



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

Citation: REAL v CANALI, 2026 ONLTB 43060

Date: 2026-05-29

File Number: LTB-L-005264-26-RV

In the matter of: Second Floor - 2B, 254 CHRISTIE ST
TORONTO ON M6G3B8

Between: FORTUNATA CATARINA REAL Landlord

And

ANDREW CANALI Tenant

Review Order

FORTUNATA CATARINA REAL (the 'Landlord') applied for an order to terminate the tenancy and evict ANDREW CANALI (the 'Tenant') because of substantial interference with reasonable enjoyment or lawful right or privilege, wilful or negligent damage, serious impairment of safety, wilful damage, and use of the premises inconsistent with residential use. The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date, compensation for damage, and compensation for substantial interference.

This application was resolved by order LTB-L-005264-26, issued on May 26, 2026.

On May 28, 2026, the Tenant requested a review of the order.

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

Reasons:

1. 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.
2. The Landlord applied to terminate the tenancy because the Tenant had tampered with the lock on the front door of the building on four separate occasions in December, 2025. He put glue in the lock; put tape over the lock; put tape over the lock a second time; and finally, installed a metal plate over the lock.
3. Member Mercer found that by tampering with the lock, the Tenant had seriously impaired the safety of other tenants in the building by preventing the door from locking. She also found that by putting glue in the lock and installing a metal plate over it, the Tenant had wilfully or negligently damaged the lock. She ordered that the tenancy be terminated and that the Tenant pay for the cost of repairing the damage.

4. On review, the Tenant argues that the Member erred in several respects. I will consider them in turn.

Validity of the notices of termination

5. The Landlord served several notices of termination in this matter. Two of them were relevant. The first was an N5 notice alleging that the Tenant's conduct had wilfully or negligently damaged the premises, contrary to section 62(1) of the *Residential Tenancies Act, 2006* (RTA). Pursuant to sections 62(2)(c) and 62(3), the N5 stated that it would be void if the Tenant, within seven days, repaired the damage or paid the Landlord for the cost of repair.
6. The second notice was an N7 notice alleging that the Tenant's conduct had seriously impaired the safety of persons in the residential complex, contrary to section 66(1) of the RTA, and had wilfully damaged the unit, contrary to section 63(1) of the RTA. Notices under sections 66(1) and 63(1) are not voidable.
7. At the hearing, the Tenant argued that both notices were defective. He relied on a prior decision of the Landlord and Tenant Board (LTB), *TSL-93538-18 (Re)*, 2018 CanLII 120835 (ON LTB). In that decision, Member Mungovan found that serving two notices for the same conduct, one voidable and the other non-voidable, "would likely confuse any reasonable tenant" because the tenant "is being told he can and cannot avoid eviction for the same impugned conduct." As a result, Member Mungovan found that both notices were defective.
8. Member Mercer's decision on the Tenant's argument was as follows:

The Tenant raised the issue that the N5 and N7 notices were based on the same facts, one voidable and the other not, therefore the applications should be dismissed.

Although both notices contain the same allegations, the Landlord's N7 notice of termination alleges that the Tenant's actions constitute wilful damage and have seriously impaired the safety of the other tenants.

Therefore, the Tenant's request to dismiss the applications is denied and the application shall proceed on its merits.

9. The Tenant argues that Member Mercer erred by failing to adopt the reasoning in Member Mungovan's decision, and by failing to explicitly consider the decision in her Reasons.
10. The LTB's decisions are not binding. Nonetheless, in some cases a Member may be required to explain why they have not adopted the reasoning in a prior LTB decision relied upon by a party. In particular:

Where a decision maker *does* depart from longstanding practices or established internal authority, it bears the justificatory burden of explaining that departure in its reasons. If the decision maker does not satisfy this burden, the decision will be unreasonable. [...] We repeat that this does not mean administrative decision

makers are bound by internal precedent in the same manner as courts. Rather, it means that a decision that departs from longstanding practices or established internal decisions will be reasonable if that departure is justified, thereby reducing the risk of arbitrariness, which would undermine public confidence in administrative decision makers and in the justice system as a whole. (*Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 (CanLII), [2019] 4 SCR 653 at para. 131)

11. In this case, the decision the Tenants relied on did not represent a longstanding practice or established internal authority. On the contrary, the decision was an outlier.
12. Member Mungovan reached the same conclusion in *TSL-96380-18 (Re)*, 2018 CanLII 120849 (ON LTB) and *TSL-93796-18 (Re)*, 2019 CanLII 87094 (ON LTB). However, I am only aware of one other reported decision by any other Member that reached the same conclusion: in *SWL-42630-12 (Re)*, 2013 CanLII 13987 (ON LTB), Vice Chair Bugby reached a similar conclusion without giving reasons.
13. Landlords routinely serve voidable and non-voidable notices of termination for the same conduct. Contrary to Member Mungovan's decisions, the LTB's longstanding practice is to allow such applications to proceed in respect of both notices.
14. Since *TSL-93538-18 (Re)* is not a binding decision or established internal authority, and does not reflect the LTB's longstanding practice, I do not find that Member Mercer was required to explain, in her Reasons, why she did not adopt it.
15. Furthermore, I am satisfied that Member Mercer's conclusion about the validity of the N5 and N7 notices was correct. Respectfully, Member Mungovan's approach was not correct.
16. The Landlord had a statutory right under section 62 to serve a notice for wilful or negligent damage, and statutory rights under sections 66 and 63 to serve notices for serious impairment of safety and wilful damage. There is nothing in the RTA that would prevent the Landlord from exercising all its rights. The RTA requires that section 62 notices be voidable and that section 66 and 63 notices be non-voidable. By serving both notices, the Landlord was acting in accordance with the RTA.
17. Member Mungovan reasoned that a tenant served with both notices "is being told he can and cannot avoid eviction for the same impugned conduct." That is not correct. Repairing or paying for damage will void a notice of termination given under section 62, but will not void other notices of termination given under other sections of the RTA. Member Mungovan was of the view that being served with both notices "would likely confuse any reasonable tenant," but other Members have not shared that view. In my view, a reasonable tenant, after reading both notices, would understand that one was voidable and the other was not.
18. Furthermore, in *Parousis v. Centurion Property Associates Inc.*, 2025 ONSC 6864 (CanLII), the Divisional Court considered a tenant whose failure to pay her full rent constituted both arrears of rent and persistent late payment of rent. The landlord served both a voidable notice of termination for arrears, and a non-voidable notice of termination for persistent late payment. The Court held that:

[T]he Act recognizes two distinct yet related sets of issues: (i) arrears of rent; and (ii) persistent late payment of rent. *Both may arise from the same fact situation.* Both may be pursued by a landlord, and it is for the LTB to decide how it will process the issues before it – whether (i) in two proceedings, with two sets of potential remedies – or (ii) in one proceeding with remedies encompassing the entire course of conduct. (*Parousis* at para. 4; my emphasis.)

19. *Parousis* is binding, and in my view establishes that a landlord can serve voidable and non-voidable notices for the same conduct.
20. For those reasons, I am satisfied that Member Mercer did not err in denying the Tenant's motion and upholding both the N5 and the N7 notices. I am also satisfied that she gave adequate reasons for her decision. Her reasons were brief, but the issue was straightforward. The RTA permits landlords to give both N5 and N7 notices, and the Landlord in this case had done both.

Serious impairment of safety

21. The Tenant also argues that Member Mercer erred by finding that his conduct seriously impaired other tenants' safety. He argues that the Member failed to consider evidence that the front door had been without a lock for years, without any security incidents, before the Landlord installed one in late 2025.
22. Further, the Tenant argues that the Member failed to consider evidence that a municipal bylaw required that the front door be equipped with a lock, but also with an intercom system. He argues that it was unsafe for the door to have a lock without an intercom, and that by rendering the lock inoperable, he was actually making the building safer.
23. I am not persuaded by the Tenant's arguments. Serious impairment of safety means a risk of harm. The Landlord did not have to prove that any tenants had been harmed by the absence of a lock, only that their safety was put at risk. No reasonable person would think it safe to for the front door of a residential building to be left unlocked. It may be that the Landlord had, in previous years, impaired tenants' safety by failing to install a lock. That does not undermine the Member's finding that, once a lock had been installed, tampering with the lock seriously impaired tenants' safety.
24. Similarly, it was open to the Member to find, on the evidence before her, that a lock without an intercom was safer than no lock at all.

Relief from eviction

25. Member Mercer considered whether to allow the tenancy to continue on the condition that the Tenant stop tampering with the lock. She found that a conditional order would not be appropriate because "the Tenant has been aware of the Landlord's request prior to the service of the notices of termination and yet he has continued his behaviour with no regard for the safety of the other tenants."
26. The Tenant argues that the Member's reasoning is inconsistent with the Landlord's testimony. The Landlord testified that the Tenant had stopped tampering with the lock

during the seven-day period required to void another part of the N5 notice respecting substantial interference with reasonable enjoyment. He argues that the Landlord's testimony demonstrated that he was willing to comply when placed on formal notice.

27. I am not persuaded by that argument, either. The Landlord also testified that "after the voiding period the Tenant's behaviour resumed and he was seen propping the door open with the carpet or stuffing paper into the latch." The Member's finding that the Tenant had "continued his behaviour with no regard for the safety of the other tenants" was clearly available to her on the evidence.

Result

28. I am not persuaded that the Member erred in holding that the Landlord could serve both voidable and non-voidable notices; in finding on the evidence before her that the Tenant had wilfully damaged the premises and seriously impaired other tenants' safety; or in deciding not to exercise her discretion to issue a conditional order. The review will be denied.

It is ordered that:

1. The request to review order LTB-L-005264-26 issued on is denied. The order is confirmed and remains unchanged.

May 29, 2026
Date Issued

Dale Whitmore
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.

