



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

Citation: CDSB v Gerner, 2026 ONLTB 40511

Date: 2026-06-01

File Number: LTB-L-092851-25-RV
LTB-L-092851-25-SA

In the matter of: 177 STERLING AVE E
TIMMINS ON P4N1R8

Between: CDSB Landlord

And

Amanda Gerner Tenant

Review Order

CDSB (the 'Landlord') applied for an order to terminate the tenancy and evict Amanda Gerner (the 'Tenant') and for an order to have the Tenant pay compensation for damage they owe because the Tenant did not meet a condition specified in the order issued by the LTB on October 1, 2025 with respect to application LTB-L-033495-25.

The Landlord's application was resolved by order LTB-L-092851-25, issued on November 12, 2025. This order was issued without a hearing being held.

The Tenant filed a motion to set aside order LTB-L-092851-25 on December 4, 2025. Since the motion to set aside was filed 12 days after the deadline of November 22, 2025, to file a motion to set aside, the Tenant also filed a Request to Extend the Deadline to submit a motion to set aside this ex parte order.

On December 5, 2025, the Tenant's request to extend was denied.

On March 31, 2026 the Representative requested a review of the Member's endorsement denying the request to extend.

On April 1, 2026 interim order LTB-L-092851-25-RV-IN was issued, staying the order issued on November 12, 2025.

This motion was heard by videoconference on May 20, 2026.

The Landlord's Agent, Tracy Legros, the Tenant's Representative, Therese Menard, and the Tenant, Amanda Gerner, attended the hearing.

Determinations:

Request to Review

1. The Tenant filed a request to review the Member's Endorsement denying the Tenant's Request to Extend the Deadline to file a Motion to Set aside ex parte order LTB-L-092851-25.
2. The request to extend the deadline to file a motion to set aside this ex parte order stated the following:
 - The tenant claims to not have received any Notice of hearings.
 - The tenant claims to have issues with her mail.
 - The tenant has a learning disability, leading her to not understand legal proceedings or the severity.
 - The tenant was not reasonably able to participate in the hearings, therefor (*sic*) not able to defend herself.
 - To not grant a stay would be prejudicial to the tenant as the termination date has already passed.
 - Without a stay and proper hearing, the tenant could be evicted upon the sheriff at any time.
3. The Member denied the request stating that the Tenant had failed to indicate when they received, or became aware of the ex parte order, or stated why they were unable to file their motion to set aside until nearly 2 weeks after the deadline. The Member decided that the prejudice to the Tenant for denying this request did not outweigh the prejudice to the Landlord if the request was granted since the Landlord should be able to rely upon the finality of an order from the Board, as well as the rules that govern deadlines for submissions. The Member also clarified that the Tenant would not have been able to participate at the hearing issuing the termination of the tenancy because the order terminating the tenancy was an ex parte order that was issued because of a breach of a condition on order LTB-L-033495-25; there was no hearing to participate in.
4. The request to review contained substantially more information than what was contained in the request to extend: This representative identified that the Tenant has two young children (11 and 8 years old) and went into further detail regarding their learning disability. These are elements that would have been considered in a request to extend that would have swayed any other Member to grant this request.
5. The issue before me though, is did the Member make a serious error in denying this request or was the denial fair based on the information provided.
6. The Board is governed by Rule 16.4 of the LTB- Rules of Procedure when considering whether to grant or deny a request to extend. These considerations include:
 - a) The length and reasons for the delay
 - b) The prejudice a party would experience if granted or denied,

- c) Whether potential prejudice would be remedied,
 - d) If the request is made in good faith, and
 - e) Any other relevant factors.
7. The delay was at least 12 days after the due date. It was noted that the Tenant could have received the ex parte order by email, as the order was distributed to the Tenant via the same email account in which they made their motion to set aside. This indicates that the email account is current. No other information was provided explaining the delay in this request. The author of the request instead brought up an inability to participate which is not relevant, because the order, by nature is an *ex parte* order, which means that no hearing occurred. Pursuant to section 78 of the Act, if a breach occurs, the Landlord is allowed to file an application with the Board and, if there are no issues with the submission, an ex parte order, or, order without a hearing, is issued to terminate the tenancy.
8. However, a reason for the delay, the Tenant's learning ability, was not addressed in the endorsement. The learning disability, in consideration of the fact that the motion to set aside was filed on 12 days later than the deadline, appears to be a good explanation for the delay. Although the Author's statement of the disability was vague, as it did not give a reason HOW the disability affected the Tenant's ability to respond in a timely manner, or WHY this disability caused a delay in filing, it is an issue that should be given more consideration by the LTB.
9. It should also be noted, that granting a request to extend does not guarantee success at the set aside hearing; the purpose of the request to extend is to prevent abuses of process from either party. If a request to extend is granted, there is little prejudice to the opposing party, because it only means that the applicant may be required to prove their claims made in their L4 application to the LTB.
10. I am satisfied, based on a sum of all the submissions before me, that the Member did make a serious error in not giving enough weight to the Tenant's learning disability as a reason for the delay in filing their motion to set aside.
11. For this reason, the Tenant's request to review is granted. The request to extend is granted, and the Board will proceed with a motion to set aside hearing.

Motion to Set Aside

12. After giving the parties time to confer with their clients and each other, the parties presented an agreement on consent to resolve this matter. The parties agree to the setting aside of order LTB-L-092851-25 issued on November 12, 2025. The original order, LTB-L-033495-25., is to be restored, save for one amendment to paragraphs 5 and 6 of the order, which addresses the Tenant's payment of the filing fee.

5. The total amount the Tenant owes to the Landlord is \$186.00.

6. If the Tenant does not pay the Landlord the full amount owing on or before July 20, 2026, the Tenant will start to owe interest. This will be simple interest calculated from July 21, 2026, at 4.00% annually on the balance outstanding.

13. I am satisfied that both parties are entering into this consent free of any pressure or coercion. The terms of their consent agreement are in accordance with the Act, therefore, the order on consent is granted.

It is ordered that:

1. The request to review order LTB-L-092851-25 issued on November 12, 2025, is granted.
2. On the consent of both parties, the motion to set aside ex parte order LTB-L-092851-25 is granted.
3. Order LTB-L-092851-25 issued on November 12, 2025, is cancelled.
4. Order LTB-L-033495-25 is restored.
5. The previous order issued on October 1, 2025, with respect to LTB-L-033495-25 is amended to allow the Tenant until July 20, 2026, to pay the filing fee of \$186.00, the cost incurred by the Landlord.

June 1, 2026
Date Issued

Robert Brown
Vice Chair, 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.