



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

File Number: LTB-L-105106-25-RV

In the matter of: 1, 136 CLOSE AVE
TORONTO ON M6K2V5

Between: Eugene Girdauskas Landlord

And

Barry Harden Tenant

Review Order

Eugene Girdauskas (the 'Landlord') applied for an order to terminate the tenancy and evict Barry Harden (the 'Tenant') because the Tenant failed to meet a condition specified in the order issued by the Board on February 13, 2024 with respect to application LTB-L-050678-24.

This application was resolved by order LTB-L-105106-25-SA issued on February 25, 2026; the Tenant did not attend the hearing.

On March 30, 2026, the Tenant requested a review of the order and that the order be stayed until the request to review the order is resolved.

On March 31, 2026, interim order LTB-L-105106-25-RV-IN was issued, staying the order issued on February 25, 2026.

This application was heard by videoconference on May 28, 2026.

The Landlord's Legal Representative Giuseppe Rizzuto and the Tenant attended the hearing.

The Tenant's caseworker Alexandra Vidazgo and the Tenant's support person Tom Tadros also attended the hearing.

Philip Lee attended the hearing as a witness for the Landlord; his testimony was not required.

Determinations:

1. The Tenant's review request is based on not being reasonably able to participate in the hearing.
2. The Tenant testified he had eye surgery on March 20, 2026, and could not get help for the hearing, plus he had no means of participating; he is not technically savvy and neither his support/case worker nor legal representative, who is on maternity leave, were able to

attend. The Tenant also testified that he realized the legal clinic was not representing about 1 week after he received the ex-parte order issued on January 5, 2026. When asked why he did not phone into the hearing, the Tenant testified because of his sight issues, he could not function without his case worker or legal assistance. The Tenant further testified that he gives his support person at Parkdale Health Centre all his mail to read for him and was told it would not be good for him to go to the set aside hearing because he did not have anyone to go with him, therefore, he chose not to attend because of all these circumstances.

3. Based on the testimony before me, I am not satisfied that the Tenant was not reasonably able to participate in the proceeding. The Tenant did not exercise due diligence; he chose not to attend based on a non-legal opinion. In the least, the Tenant could have contacted the legal clinic and ask how to handle the situation or attend the hearing and request an adjournment; the Tenant did neither. The Divisional Court in *Q Res IV Operating GP Inc. v. Berezovs'ka*, 2017 ONSC 5541 said at paragraph 8 that, "Lack of due diligence in dealing with court proceedings is a reason for refusing to set aside an order where a party failed to appear"; the same analysis applies for a review request.
4. I recognize that in *Kathryn King-Winton v. Doverhold Investments* (2008 CanLII 60708 (ON SCD)), the Divisional Court stated, "Being reasonably able to participate in the proceeding must be interpreted broadly, natural justice requires no less." In the case before me, I find natural justice has not been denied; although the Tenant is sight impaired it was a conscious decision to not attend the set aside hearing. That the consequences of such a choice appear not to have been considered is negligence and a lack of due diligence on the Tenant's part. The Tenant choosing not to participate is not grounds for the granting of a review.
5. For these reasons, the Tenant's request for review is denied and must be dismissed.
6. The stay of the order shall be lifted immediately; the Tenant's only response to the lifting of the stay was that he did not know how long it will take him to find suitable housing. According to the Landlord's Legal Representative, enforcement by the sheriff in Toronto takes is approximately 3 to 4 weeks, therefore, the Tenant has this time-frame before the eviction is finalized.

It is ordered that:

1. The request to review order LTB-L-105106-25 issued on February 13, 2026, is denied. The order is confirmed and remains unchanged.
2. The interim order issued on April 1, 2026, is cancelled. The stay of order LTB-L-105106-25 is lifted immediately.

June 3, 2026
Date Issued

Diane Wade
 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.