



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

File Number: LTB-L-097162-25-RV

In the matter of: A, 311 CYR AVE
VANIER ON K1L7N6

Between: Cindy Foran Landlords
Gordon Fretts

And

Daniel Monette Tenant

Review Order

Cindy Foran and Gordon Fretts (the 'Landlords') applied for an order to terminate the tenancy and evict Daniel Monette (the 'Tenant') because:

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

This application was resolved by order LTB-L-097162-25 issued on April 24, 2026.

On May 14, 2026, the Landlord Cindy Foran 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 records.

Determinations:

1. the Landlord alleges that the order contains a serious error, specifically:
 - a. Section 83 of the *Act* was misapplied.
 - b. The Landlord's evidence was submitted in accordance with the Section 48 of *Act* guidelines.
2. On the basis of the submissions made in the request, I am not satisfied that there is a serious error in the order.
3. The Board's Interpretation Guideline 8, entitled Review of an Order sets out what a serious error includes, and that it is not an opportunity to overcome how an application was presented.

Serious error includes:

- An error of jurisdiction. For example the order relies on the wrong section of the RTA or exceeds the LTB's powers. This issue need not have been raised in the original hearing;
- A procedural error which raises issues of natural justice;
- An unreasonable finding of fact on a material issue which would potentially change the result of the order;
- **New evidence which was unavailable at the time of the hearing and which is potentially determinative of one or more central issues in dispute; (emphasis added)**
- An error in law. The LTB will not exercise its discretion to review an order interpreting the RTA unless the interpretation conflicts with a binding decision of the Courts or is clearly wrong and unreasonable; and ,
- An unreasonable exercise of discretion which results in an order outside the usual range of remedies or results and where there are no reasons explaining the result.

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. See also [TEL-25281-12-RV \(Re\)](#), 2012 CanLII 45139 (ON LTB) and [TEL-34298-13-RV \(Re\)](#), 2013 CanLII 50425 (ON LTB).

4. The Board did not embark on an examination of how to exercise its discretion in accordance with section 83 of the *Act*. Rather the Board found that the Landlord did not prove their case on a balance of probabilities. In other words, the Board did not find that

in good faith the Landlord intended to occupy the rental unit for residential purposes for at least 12 months.

5. In order for the Landlord to succeed in this case, but by the narrowest of margins. The onus is to prove their case on a balance of probabilities, which means greater than 50% in their favour. In a situation where both parties appear genuine, and absent any documentation that favours one version of events over the other, the case is considered to be at a stalemate, or a 50/50 case, which is a failed case for the Landlord who must get their case beyond 50/50: even by 1%.
6. The only medical documents that were considered by the Member is found at DOC-7480116. The Landlord now seeks to introduce fresh evidence in the form of additional medical documents that were not available at the hearing. In my view some of these do indeed pre-date the date of the hearing. Therefore, they were reasonably available and could have been submitted for the hearing.
7. A medical letter that is dated after the hearing, appears to augment the letter admitted in the hearing to provide more details. A review is not an opportunity to present a better case than ought to have been done at first instance.
8. I have reviewed the Baord's instructions for completing and filing an L2 application in accordance with an N12 Notice. These instructions guide a Landlord through the process. However, in any application, the burden of proof is still an obligation to be met and any disclosure in support of an application should be provided. In this case, the Landlord was alleging that they required a unit on the main floor in good faith because of their medical condition. The medical note ought to have included sufficient details to the allow the Member to determine that there was sufficient medical or disability reasons to support their application. The Member rejected the medical or disability related reasons and as set out in paragraphs 36 and 37.
9. The Member's findings that the Landlord had not proven on a balance of probabilities, their good faith intentions was rational, and not arbitrary or capricious. In the circumstances, the findings are entitled to deference.
10. On the basis of the submissions made in the request, I am not satisfied that there is a serious error in the order

It is ordered that:

1. The request to review order LTB-L-097162-25 issued on April 24, 2026, is denied. The order is confirmed and remains unchanged.

June 2, 2026
Date Issued

Robert Patchett
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.