



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

Citation: Rogers v Serniak, 2026 ONLTB 43841

Date: 2026-06-02

File Number: LTB-T-046492-25-RV

In the matter of: 3 LISGAR ST
ST CATHARINES ON L2S1P6

Between: Steve Rogers Tenants
Rhonda Tempest

And

Estate of Edward Serniak Landlord

Review Order

Steve Rogers and Rhonda Tempest (the 'Tenants') applied for an order determining that Estate of Edward Serniak (the 'Landlord') gave a notice of termination in bad faith.

This application was resolved by order LTB-T-046492-25 issued on April 8, 2026.

On May 7, 2026, the Tenant, Steve Rogers, 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 file.

Determinations:

1. The review request is filed on the basis of a serious error. The Tenant submits that the Member failed to properly consider relevant evidence and applied an incorrect legal test in assessing whether the Landlord served the N12 notice of termination in bad faith.
2. For the reasons that follow, the Tenant's request for review is denied.
3. The entirety of the review request addresses the Tenant's disagreement with the order and argues that a different conclusion should have been reached. The Tenant submits that the Member's acknowledgement of the seven-month delay was sufficient to support a finding of bad faith, that Philip Serniak's (PS') conduct should have supported an inference of bad faith, and that the PS's discussions with Mr. Long regarding a possible tenancy were not properly considered.
4. On review of the order, PS's role and conduct were expressly addressed throughout the order in paragraphs 6, 7, 11 – 15, 19, 21 – 22 and 26. The issue with respect to a

possible new tenancy was analyzed in paragraphs 21 – 22. The delay in occupancy and failure to move in were repeatedly acknowledged in paragraphs 2, 5, 9, 18, 19, and 20. The Tenant's evidence with respect to the unreasonable delay, lack of progress, steps to sell the Toronto home and the Landlord's failure to make utility inquiries were accepted by the Member. However, the Member explained why those facts, when weighed against the totality of the evidence, did not establish bad faith on a balance of probabilities.

5. Paragraph 20 of the order shows that the Member grappled with both sides of the evidence and concluded the Tenants did not discharge their burden.
6. Although the Tenant disagrees with the April 8, 2026 order, the order sets out a reasonable basis for the determinations made. As stated in Guideline 8 of the Board's Interpretation Guidelines, the Member's findings of fact are entitled to considerable deference. Reasonable determinations will not be interfered with on review.
7. The Tenant's disagreement with the Member's determinations is not sufficient grounds for review. There is nothing in the record to support a determination that the hearing Member applied improper principles in assessing the evidence introduced or that there was insufficient evidence before the Board to support its conclusions.
8. With respect to the Tenant's allegation that the Member failed to consider certain evidence submitted by the Tenant, a Member is not required to make an explicit finding or explicitly address each piece of evidence submitted by the parties in a decision (see *Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62, [2011] 3 S.C.R. 708).
9. As the Tenant has not established that there was no evidence to support the Member's findings or that the Member's findings are capricious or unreasonable, a review is not warranted. The hearing Member was in the best position to assess the evidence and credibility of the witnesses and there was evidence upon which the Member could reasonably have reached his decision. The purpose of the review process is not to provide parties with an opportunity of relitigating the issues in hopes of a better outcome.
10. As the Tenant has failed to establish that there is a serious error in the order, the request to review must be denied.

It is ordered that:

1. The request to review order LTB-T-046492-25 issued on April 8, 2026 is denied. The order is confirmed and remains unchanged.

June 2, 2026
Date Issued

Mayra Sawicki
Member, Landlord and Tenant Board

Toronto ON M7A 2G6

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.