



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

File Number: LTB-L-101322-25-RV

In the matter of: 413, 16 BROOKERS LANE
ETOBICOKE ON M8V0A5

Between: Audaisha Franks Landlord

And

Austin Pettit Tenant
Jelisa Sutherland

Review Order

Audaisha Franks (the 'Landlord') applied for an order to terminate the tenancy and evict Austin Pettit and Jelisa Sutherland (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-101322-25 issued on February 23, 2026.

On March 17, 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 18, 2026 interim order LTB-L-101322-25-RV-IN was issued, staying the order issued on February 23, 2026.

This application was heard by videoconference on May 5, 2026.

The Landlord and the Tenant Jelisa Sutherland attended the hearing.

When the capitalized word "Landlord" is used in this order, it refers to all persons or companies identified as a Landlord at the top of the order. When the capitalized word "Tenant" is used in this order, it refers to all persons identified as a Tenant.

Determinations:

1. On the basis of the submissions made in the request, I am not satisfied that the Tenant was not reasonably able to participate in the proceeding.
2. The Tenant Jelisa Sutherland testified that she did not receive the Notice of Hearing and was unaware that the hearing had taken place until she received the order from the Board on February 27, 2026. She testified that she received the order via email at jelisa_sutherland@hotmail.com.

3. She also testified that after she received the order from the Board, she checked her email for the Notice of Hearing but could not locate it.
4. The Tenant also testified that she no longer resides in the rental unit as she vacated in June 2024 due to domestic violence. She testified that she requested the Landlord remove her from the lease agreement in June or July 2025, but the Landlord refused to do so. The Tenant did not provide the Landlord an N15 to end her tenancy.
5. The Board's records indicate that the Notice of Hearing was emailed to the Tenant Jelisa Sutherland at jelisa_sutherland@hotmail.com on December 10, 2025. It was also emailed to the Tenant Austin Pettit on December 10, 2025. There is no record of either notice of hearing being returned as undeliverable.
6. The Tenant Jelisa Sutherland was clearly able to receive email to this account, as confirmed by her testimony that she received the order to the same email in February 2026, the Tenant Austin Pettit did not attend this proceeding to provide any evidence to suggest that he did not receive the notice of hearing.
7. Given that the Tenant Jelisa Sutherland knew they were signatory to a joint tenancy, from which they had not been removed, they knew or ought to have known it was possible a notice of hearing could be issued and in their email. I do not accept that the Tenant Jelisa Sutherland did not receive the notice of hearing, as she was clearly able to receive the order, sent in the same method, to the same email address shortly thereafter. Therefore, I find it is more likely that that notice of hearing was received and missed by the Tenant who was not diligent in checking their email. In other words, if the allegations in the review request are true, they missed the hearing because of their own lack of due diligence. That is not the same thing as not being reasonably able to participate.
(See: Khani v. Zhang, 2019 ONSC 1362 (Div. Ct.), and Q Res IV Operating GP Inc. v. Berezovs'ka, 2017 ONSC 5541 (Div. Ct.).)
8. Additionally, there was not evidence before me to suggest that the Tenant Austin Pettit was unaware of the proceeding or intended to attend and was unable to do so.
9. So based on all the evidence before the Board I am not satisfied the Tenants were not reasonably able to participate in the hearing of February 18, 2026
10. The Tenant sought a delay of one year of the lifting of the stay while the Landlord sought an immediate lift.
11. The Tenant testified that she is a single parent providing sole support to her child, and that her child father is not providing child support. She testified that she would be unable to pay any arrears and sought a delay of one year.
12. I am satisfied that a modest delay to May 31, 2026 is appropriate in consideration of the personal and financial circumstances of the Tenant Jelisa Sutherland, However I note that the outstanding arrears are over \$13,000.00 and no payments have been made since the Application was filed, and find that any further delay would be unduly prejudicial to the Landlord.
13. As the date of the lifting of the stay was communicated to the parties at the hearing, it shall not be extended given the date of this order.

It is ordered that:

1. The request to review order LTB-L-101322-25 issued on February 23, 2026 is denied. The order is confirmed and remains unchanged.
2. The interim order issued on March 18, 2026 is cancelled. The stay of order LTB-L-101322-25 is lifted May 31, 2026.

June 8, 2026
Date Issued

Reid Jackson
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
Toronto ON M7A 2G6

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