



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

**Citation:** Kazubek Legal v Marsilio, 2026 ONLTB 45150

**Date:** 2026-06-05

**File Number:** LTB-T-028293-23-RV

**In the matter of:** 243 Highway 8  
Stoney Creek ON L8G1E2

**Between:** Kazubek Legal Tenant

**and**

The Estate of Mike Marsilio Landlord

**and**

Mirella Marsilio Potential Party

**Review Order**

Kazubek Legal (the 'Tenant') applied for an order determining that Mike Marsilio (the 'Landlord') failed to meet the Landlord's maintenance obligations under the *Residential Tenancies Act, 2006* (the 'Act') or failed to comply with health, safety, housing or maintenance standards. This application was resolved by order LTB-T-028293-23 issued on May 26, 2026.

On June 4, 2026, the Tenant requested a review of the order.

A preliminary review of the review request was completed without a hearing.

**Determinations:**

1. The Tenant files this request on the basis that they allege there is a serious error in the order or that a serious error occurred in the proceedings.
2. For the reasons that follow, I am not satisfied that there is a serious error in the order or that a serious error occurred in the proceedings.
3. The Tenant submits that the presiding Member seriously erred in their interpretation of section 29 of the Act. The Tenant submits that the application was filed on April 5, 2023, which is within one year of the alleged flood, which the Tenant states occurred on February 17, 2023. The Tenant submits that although the application claimed that the

flood occurred on February 17, 2022, it was a serious error for the Member to consider the amendment of the application to correct the date as the commencement of a new proceeding.

4. Interpretation Guideline 8 - Review of an Order states that “A review is not an appeal” and states:

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.

5. There are no binding Court decisions that directly speak to the issue identified in the request to review and I am not aware of any.
6. I am also not satisfied that the order under review is clearly wrong and unreasonable. As stated in paragraph 10 of the order, it is well established that when a party seeks to add a new claim or make a claim against a new party by way of amendment, the limitation period for the new claim is calculated based on the date of the amendment, not the date that the application was originally filed. The Member’s interpretation in this regard is consistent with many other Board decisions on this exact issue.
7. The Tenant also submits that the presiding Member seriously erred by refusing the amendment of the application to correct a clerical error. The Tenant submits that the application incorrectly claimed that the flood occurred on February 17, 2022 rather than February 17, 2023.
8. Whether to permit an amendment of an application is a discretionary decision. It appears that the first time that this particular amended was requested was at the hearing on May 19, 2026. It was not unreasonable for the Member to refuse an amendment which was requested more than 3 years after the application was filed. The Tenant had ample opportunity prior to that date to request the amendment.
9. Nevertheless, the amendment sought is not clerical as suggested by the Tenant. The entire timeline included as a schedule to the Tenant’s application refers to events that occurred in 2022, the list of damaged belongings attached to the application is dated in 2022, and the Tenant’s evidence, including emails, are also dated in 2022. It is clear from the evidence and submissions in the Board’s records that it was not a clerical error on the application but that the Tenant initially intended to claim compensation for the flood in 2022, not 2023. What it seems is that the Tenant is only now trying to correct the deficiency and circumvent the limitation period issues by claiming a clerical error with the date.
10. The Tenant also submits that the presiding Member seriously erred in dismissing the application without making a determination on whether the Potential Party is a landlord as defined in section 2 of the Act. It was not an error for the Member not to consider and decide on this issue as the application could not proceed due to the claims in the application and the amendment sought being beyond the limitation period. Whether or

not the Potential Party is considered a landlord and could be added to the application would not change the outcome.

11. The Tenant also submits that the presiding Member seriously erred by stating that the application may have been dismissed for failing to plead a contravention of the Act as this issue was not raised at the hearing and therefore the Tenant did not have an opportunity to give submissions on the issue. This is not an error. The order clearly states that the application may have been dismissed for this reasons but the Member makes no determination in this regard. The Tenant has no entitlement to give submissions on an issue that is irrelevant to the order. The application was not dismissed for this reason and it therefore has no effect on the outcome.

12. As I am not satisfied that there is a serious error in the order or that a serious error occurred in the proceedings, the request to review the order must be dismissed.

**It is ordered that:**

1. The request to review order LTB-T-028293-23 issued on May 26, 2026 is denied. The order is confirmed and remains unchanged.

**June 5, 2026**  
**Date Issued**

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**Candace Aboussafy**  
Member, Landlord and Tenant Board

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