



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

Citation: Twerdochlib v Grosdanof, 2026 ONLTB 41231

Date: 2026-06-09

File Number: LTB-L-098703-25-RV

In the matter of: 2nd Floor, 139A Martin Grove Road
Toronto Ontario M9B4K8

Between: Orest Twerdochlib Landlord

And

Stoyan Grosdanof Tenants
Sharon Grosdanof

Review Order

Orest Twerdochlib (the 'Landlord') applied for an order to terminate the tenancy of Stoyan Grosdanof and Sharon Grosdanof (the 'Tenants') and evict (the 'Unauthorized Occupant') because the Tenants transferred occupancy of the rental unit to the Unauthorized Occupant without the Landlord's consent. The Landlord also applied for compensation by the unauthorized Occupant for the use of the rental unit.

The Landlord also applied for an order to evict (the 'Subtenant') because the subtenancy ended and the Subtenant continues to occupy the rental unit.

This application was resolved by order LTB-L-098703-25 issued on April 7, 2026.

On April 16, 2026, the Landlord requested a review of the order.

This review was heard by videoconference on May 20, 2026.

The Landlord, the Landlord's representative Oleksandr Pichugin and the Tenants attended the hearing.

Determinations:

Request for Review – Serious Error Considerations

Serious Error: Applicable legal test

1. The Landlord filed a request for review on the basis that the hearing Member made a serious error by failing to apply the correct legal test; particularly the test set out in *Samuel*

Property Management Ltd. V Nicholson, 2002 CanLii 45065 (ONCA) (“*Samuel v Nicholson*”).

2. Upon review of the original order, I find the hearing Member failed to provide adequate reasons for their determination as the order does not demonstrate that they considered the applicable legal test or they failed to provide sufficient reasons to demonstrate that they did so, as the order does not address the principles articulated in *Samuel v Nicholson*.
3. Specifically, the hearing Member states in paragraph 7 of the original order:

“...The Tenants pay rent for the rental unit and also have keys to the rental unit and come and go as they wish to do so. At times the Tenants stay in the rental unit for weeks at a time and other times they stay there for a few days”.

4. Applying the test in *Samuel v Nicholson*, the Board must consider whether there is a “substantial enough connection to the unit”. I find the hearing Member failed to provide adequate reasons in their order to meet the test of substantial connection to the unit.
5. Based on these findings, the Landlord’s request for review would normally be entitled to be granted. However, in considering all of the evidence of both parties, and despite being in agreement with the Landlord that there was a serious error in the order as the hearing Member failed to apply or fully consider the applicable legal test, I find that there was also a live issue of the Board’s jurisdiction before the Member and for the reasons below, it was a serious error to permit the application to proceed.

Serious Error: Application filed beyond the limitation period

6. For the reasons that follow, I find that there was a second serious error in the original order and that serious error would require the Landlord’s application to be dismissed.
7. In paragraph 2 of the original order, the hearing Member states:

“The application was filed within 60 days after the Landlord discovered the unauthorized occupancy.”

8. In paragraph 3 of the original order the hearing Member further states:

“The Landlord testified that on August 5, 2025, he became aware that the Tenants were no longer living in the rental unit and that the occupancy had been transferred over to their daughter.”

9. At the hearing before me, and in the original hearing as reflected in the order and hearing recording, I find that there was consistent uncontested evidence before the Board that the Landlord discovered the unauthorized transfer of the rental unit on or about August 5, 2026.
10. The Landlord’s evidence confirmed they filed their application with the Board on October 30, 2025, which was deemed received by the Board on November 3, 2025. On the basis of

the Landlord's own evidence, given in the original hearing, the application was filed 86 days after the Landlord was aware of the Tenants vacating the rental unit.

11. Subsections 104(1) and 104(4) of the *Residential Tenancies Act, 2006* (the 'Act') sets out the applicable limitation period for this type of application and states:

104 (1) If a person occupies a rental unit as a result of an assignment of the unit without the consent of the landlord, the landlord may negotiate a new tenancy agreement with the person.

...

(4) A person's occupation of a rental unit shall be deemed to be an assignment of the rental unit with the consent of the landlord as of the date the unauthorized occupancy began if,

(a) a tenancy agreement is not entered into under subsection (1) or (2) within the period set out in subsection (3);

(b) the landlord does not apply to the Board under section 100 for an order evicting the person **within 60 days of the landlord discovering the unauthorized occupancy**; ... [Emphasis Added].

12. Based on the evidence before me and the evidence before the original hearing Member, I find the application ought to have been dismissed pursuant to subsection 104(4) of the Act, as the Landlord filed the application 86 days after learning of the unauthorized transfer of the rental unit, which is beyond the 60-day limitation period imposed by the Act.
13. As the application was not filed with the Board within 60 days of the Landlord learning of the unauthorized transfer, there is a deemed assignment of the rental unit with the consent of the Landlord (s. 104(4)). As a result, it was a serious error of the original Member to hear and make a determination on the application.
14. I find that as the Landlord filed the application outside of the limitation period, the Landlord's application to terminate the tenancy and evict the tenant was required to be denied by the Member at the original hearing.
15. Since the outcome of the original hearing ought to have resulted in the application being dismissed (albeit on different grounds), I find the Landlord's request for review should ultimately be denied as the outcome remains the same with the Landlord's application dismissed.

The Review is Moot: Outcome would remain the same

16. Having heard the submissions of the parties and having reviewed the prior order and listened to the hearing recording, I find that the Member's order contains a serious error in failing to provide adequate reasons for their decision or in failing to consider binding case law. However, despite that there is a serious error in the order in that regard, I find that a review of the order is moot as a review would still result in the dismissal of the application for want of jurisdiction.

17. Pursuant to section 183 of the *Residential Tenancies Act, 2006* (the 'Act') the Board is mandated to adopt the most expeditious method of determining the questions arising in a proceeding, while affording the parties the opportunity to know and be heard on the issue. I find that granting a review of the matter would not be the most expeditious method to resolve the application as the outcome would remain the same. In the present case, the parties were made aware of the jurisdictional issue and had the opportunity to make submissions in both the original hearing and before me.
18. Having considered section 183 of the Act, and the fact that a review order would not result in a different outcome I find the review request must be dismissed as moot.
19. This order contains all of the reasons for my decision within it. No further reasons shall be issued.

It is ordered that:

1. The request to review order LTB-L-098703-25 issued on April 7, 2026 is denied. The order is confirmed and remains unchanged.

June 9, 2026
Date Issued

Elena Jacob
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.