



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

Citation: Poshelyuzhnyy v Babatunde-Okerayi, 2026 ONLTB 47513

Date: 2026-06-16

File Number: LTB-L-043150-22-RV

In the matter of: Basement 5 - 15 Four Winds Drive
North York ON M3J1K7

Between: Mykhaylo Poshelyuzhnyy Landlords
Olha Poshelyuzhna

and

Michael Clayiwola Babatunde-Okerayi Tenants
Agatha Obehi Boehm

Review Order

Mykhaylo Poshelyuzhnyy and Olha Poshelyuzhna (the 'Landlords') applied for an order to terminate the tenancy and evict Michael clayiwola babatunde-okeraiyi and Agatha obehi Boehm (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe. **(L1 application)**

The Landlords also applied for an order to terminate the tenancy and evict the Tenants because:

- the Landlords in good faith requires possession of the rental unit for the purpose of residential occupation for at least one year. **(L2 Application)**

This application was resolved by order LTB-L-043150-22 issued on May 8, 2026.

On June 11, 2026, the Tenant, Agatha Obehi Boehm, requested a review of the order.

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

Determinations:

Request to Extend Time

1. The Tenant, Agatha Obehi Boehm ('AB'), states in the request that they did submit the request to review on time but to the wrong email address. The request to review was properly filed once the Board informed the Tenant of the error. I find the Tenant's explanation to be reasonable in the circumstances. The request to extend time to file a review request is therefore granted.

Request to Review

2. The Tenant, AB, submits that there is a serious error in the order and that they were not reasonably able to participate.
3. On the basis of the submissions made in the request, I am not satisfied that there is a serious error in the order or that AB was not reasonably able to participate in the proceeding.
4. AB submits that there is a serious error in the order because the evidence that was submitted was not tendered. It is unclear what the Tenant is alleging as the statement itself is nonsensical and the request provides no other details. I therefore find this submission to be without merit.
5. AB also alleges that the amount owing determined by the Member is wrong. The Tenant does not explain how the presiding Member seriously erred in their determination of the amount owing or why AB is of the belief that the determination is incorrect. The Member considered both parties' evidence respect to the arrears. For example, the Member considered the Landlord's ledger submitted as well as AB's oral testimony with respect to cash payments. The Member preferred the evidence of the Landlord and provided detailed reasons as to why her preferred the Landlord's evidence in this case. The Member's findings are entitled to considerable deference. I will not interfere with the assessment of the evidence by the Member of first instance, who had the opportunity of hearing the evidence in its totality.
6. AB also submits that they were not reasonably able to participate in the hearing because they were physically and mentally ill.
7. In *Lacroix v. Central-McInlay International Limited*, 2022 ONSC 2807 (CanLII) (Div.Ct.) ('*Lacroix*'), the Divisional Court ruled that a party's internal thought process during a hearing is insufficient grounds to appeal a final Board order. The Divisional Court noted that, as in this present case, the tenant in *Lacroix* did not identify at the Board hearing a mental or physical impairment that could reasonably have interfered with the tenant's ability to participate in the proceedings. The Tenant's failure to do so at the hearing-of-first instance precluded the tenant from raising the matter on appeal.
8. The Divisional Court in *Lacroix* therefore ruled that the tenant's circumstances did not interfere with the tenant's ability to reasonably participate in the Board hearing.
9. The Divisional Court has held that procedural fairness is assessed on an objective standard. Despite the Tenant's assertions on mental capability on the date of the hearing, a person's internal thought process is not relevant to an issue before the Board. While AB in this case did state that they were feeling unwell, at no time either at the hearing or in the review request has AB identified any specific illness, diagnosis, or disability which reasonably interfered with their ability to participate in the hearing.

10. The Divisional Court has affirmed that even in the case where a party has provided a medical note to support their position that they were not able to participate in the proceeding, the note must contain sufficient information for the tribunal to determine whether the party can participate (*Wang v. Oloo*, 2023 ONSC 1028 CanLII (Div. Ct.)).
11. While AB's request to review did not include any documentation to support their assertion that they were not reasonably able to participate due to illness, it is reasonable to expect that the request would, at minimum, describe the disability or illness and the effect of the disability or illness on AB's ability to participate in the hearing. AB's request describes neither of these two elements.
12. Additionally, the review submissions are internally inconsistent and therefore they have not made out that any accommodation was required or that AB was not reasonably able to participate. The request appears to state that AB did not attend the hearing at all, which is contrary to the record. The Board's records show that AB attended the hearing on both hearing dates. Based on the order, it is apparent that AB was aware of the issues and fully participated, including raising preliminary issues regarding the validity of the termination notices. There is no indication that AB was not able to properly represent herself. The full participation renders any assertion that she was incapable not credible.
13. The application record as set out in the order is not indicative of an individual that was not reasonably able to participate. Overall, it is evident that the parties were of the issues in dispute and had the opportunity to submit evidence and make submissions with respect to those issues. As such, I am not satisfied that AB was not reasonably able to participate in the proceedings.
14. AB also states in the review request that that the presiding Member seriously erred because the order states that he considered all of the disclosed circumstances in accordance with section 83(2) of the *Residential Tenancies Act, 2006* (the 'Act') but because AB was not reasonably able to participate, the Member did not consider their circumstances. The order does not state this. Nevertheless, the Member was not required to consider any of the Tenants' circumstances under section 83 of the Act as the Tenants had already vacated and therefore, the Landlord was not seeking an order terminating the tenancy.
15. For the foregoing reasons, I am not satisfied that there is a serious error in the order or that AB was not reasonably able to participate. The request to review the May 8, 2026 shall accordingly be denied.

It is ordered that:

1. The request to review order LTB-L-043150-22 issued on May 8, 2026 is denied. The order is confirmed and remains unchanged.

June 16, 2026
Date Issued

Candace Aboussafy
Member, 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.