



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

Citation: Yuen v DUFF-BERGERON, 2026 ONLTB 47484

Date: 2026-06-16

File Number: LTB-L-026881-26-RV

In the matter of: Upper Unit, 382 MARGUERETTA ST
TORONTO ON M6H3S5

Between: Rick Yuen Landlord

And

ALYCIA DUFF-BERGERON Tenant

Review Order

Rick Yuen (the 'Landlord') applied for an order to terminate the tenancy and evict ALYCIA DUFF-BERGERON (the 'Tenant') and for an order to have the Tenant pay compensation for damage they owe because the Tenant failed to meet a condition specified in the order issued by the Board on January 29, 2026 with respect to application LTB-L-058258-25 ('the conditional order').

The Landlord's application was resolved by order LTB-L-026881-26, issued on March 31, 2026. This order was issued without a hearing being held ('the eviction order').

The Tenant filed a motion to set aside the eviction order. The Tenant's motion was resolved by order LTB-L-026881-26-SA issued on May 19, 2026 ('the motion order'). The Tenant's motion was granted and the eviction order was set aside.

On June 12, 2026, the Landlord requested a review of the motion 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 as well as the audio recording for this hearing.

Determinations:

1. The Board granted the Tenant's motion and set aside the eviction order. The Landlord submits that Board should have considered more of the circumstances surrounding the Tenant's breach of the conditional order, that the order is inconsistent with credibility findings made at the hearing, that the Landlord was not reasonably able to participate and was denied a procedurally fair hearing, that the Board misapplied the relevant legal test, and failed to consider a binding case from the Divisional Court.

2. On the basis of the submissions made in the request, I am not satisfied that there is a serious error in the order, that a serious error occurred in the proceedings, or that the Landlord was not reasonably able to participate in the proceeding.
3. In the review request the Landlord provides an overview of the evidence led at the hearing and says that the Member did not consider some of the evidence surrounding the circumstances of the breach of the conditional order. The Supreme Court in *Construction Labour Relations v. Driver Iron Inc.*, 2012 SCC 65, establishes at paragraph 3 that administrative tribunals do not have to consider and comment upon every issue raised by the parties in their reasons. The order need only provide sufficient reasons. I find that it did. The order finds that the Tenant breached the conditional order. The recording and order reflect that the Member understood the circumstances surrounding the breach.
4. The review request is largely an attempt to reargue an application that has been finally determined. That is not the purpose of a review request. The Divisional Court in *Browne v. Henley Crescent*, 2026 ONSC 455 recently concluded that the Board made an error in law in conducting a review in the absence of a serious error. As in that case, the decision under review has the hallmarks of a reasonable decision. Disagreeing with a result is not sufficient to make a decision irrational. As the Supreme Court of Canada has pointed out, reasonable people can disagree; the fact that they do is not sufficient to make a decision unreasonable: see *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, at para. 83.)
5. The Landlord submits that the Member made credibility findings against the Tenant during the hearing and then wrote an order inconsistent with those findings. The recording does not reflect that the Member made any final credibility findings against the Tenant during the hearing. Rather, the recording reflects that the Member was engaging with the Tenant's evidence and asking the Tenant questions. I also note that all of the Member's concerns about the Tenant's evidence were regarding whether the Tenant breached the conditional order. The Member ultimately found that the Tenant breached the order and therefore the recording and order are not inconsistent.
6. I have listened to the hearing recording. There is no merit to the submission that the Landlord was not reasonably able to participate in the proceeding or was denied a procedurally fair hearing. The Landlord attended the hearing, was represented, and actively participated. The Landlord was provided with an opportunity to cross examine the Tenant, provide testimony, and make closing submissions.
7. While the Landlord's representative was interrupted while referencing caselaw, the recording reflects that was because the Member was concerned that the case law was merely repeating the legal test from section 78 of the *Residential Tenancies Act, 2006* ('the Act'). The Member indicated that they were already aware of the test.
8. The Landlord submits that they were cut off from providing submissions on *Steubing v. Drewlo Holdings Inc.*, 2025 ONSC 6481. The Landlord submits that case establishes at paragraph 46 that the Board is required to consider whether a Tenant's conduct is likely

to change. That paragraph does not say that. The Court finds that in the circumstances of the case before the Board, the Board reasonably exercised its discretion to not grant relief from eviction because the tenant's conduct was unlikely to change. In this case the Tenant was required to make a single payment and that payment had been made by the motion hearing. As such, whether the Tenant would fail to make another payment in the future was not relevant as the only required payment had already been made.

9. While the Member did direct the Landlord away from leading evidence about the breach, the recording reflects that was because the Tenant already admitted to the breach. The Member directed the Landlord to focus on the second part of the test regarding all the circumstances whether it would not be unfair to set aside the order.
10. The Landlord argues that the Board misapplied the test under section 78. The recording and order both reflect that the Member applied the correct test under section 78(11). The Landlord seems to be submitting at both the hearing and on review that the breach of the previous order should be determinative of the motion. The Act explicitly contemplates that the second step of the analysis is whether having regard to all the circumstances, it would not be unfair to set aside the eviction order. As such that the Tenant breached the conditional order is the starting point but not the end of the analysis.
11. The Landlord submits throughout the review request that the test for relief from eviction under section 83 of the Act was relevant. That is incorrect. The relevant test for whether the motion should be granted is section 78(11) which the Member considered. I do however note that the tests under section 83 and 78(11) have functional similarities.
12. The Landlord submits that the Member reduced the analysis to a single factor, which was whether the Tenant had paid. That is inaccurate. The Member also considered the circumstances surrounding the breach and the impact of the breach on the Landlord. Additionally, that the Tenant paid everything owing by the hearing date is extremely relevant and a strong factor in favour of maintaining the tenancy. The Member did not make a serious error in giving significant weight to that factor.
13. The Landlord also raises a concern that the Member produced a decision immediately after the conclusion of final submissions. The recording reflects that both parties were given a fulsome opportunity to provide evidence and make submissions before a decision was rendered. That the Member made an efficient decision is not a breach of procedural fairness.

It is ordered that:

1. The request to review order LTB-L-026881-26-SA issued on May 19, 2026 is denied. The order is confirmed and remains unchanged.

June 16, 2026
Date Issued

Amanda Kovats
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.