



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

Citation: Spalding v Malette, 2026 ONLTB 50387

Date: 2026-06-25

File Number: LTB-L-087915-25_ LTB-L-096899-25-RV

In the matter of: 423 THIRD ST E
CORNWALL ON K6H2E6

Between: Penelope Spalding Landlord

And

Melanie Malette Tenant

Review Order

Penelope Spalding (the 'Landlord') applied for an order to terminate the tenancy and evict Melanie Malette (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes (L1 application).

The Landlord also applied for an order to terminate the tenancy and evict the Tenant because the Landlord has entered into an agreement of purchase and sale of the rental unit and the purchaser in good faith requires possession of the rental unit for the purpose of residential occupation. The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date (L2 application).

These applications were resolved by order LTB-L-087915-25_ LTB-L-096899-25 issued on June 19, 2026. The Tenant attended the hearing on May 11, 2026 but disconnected prior to completion and did not rejoin. The Tenant also attended the second hearing on June 5, 2026.

On June 24, 2026, the Tenant requested a review of the 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 recordings for this matter.

Determinations:

1. In the review request, the Tenant asserts that the June 19, 2026 order contains errors of law and misapplication of the *Residential Tenancies Act, 2006* (the 'Act'), conduct of the presiding Member and the Member failed to consider evidence and made material factual errors.

2. I have reviewed the Board's application record and have listened to the May 11, 2026 and June 5, 2026 hearing recordings.
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 a serious error occurred in the proceedings or that the Tenant was not reasonably able to participate in the proceedings.
4. By way of background the hearings were held to determine the Landlord's application about arrears of rent and the Landlord's application related to the sale of the rental unit. At the first hearing, the recording confirms that the Tenant attended, spoke with Tenant duty counsel and fully engaged her right to participate. She led submissions and evidence and challenged the Landlord's submissions and evidence.
5. At the point in time, when the parties were reviewing the terms of a possible consent agreement to resolve both applications, the Tenant disconnected from the hearing and did not rejoin.
6. The presiding Member proceeded to hear the L2 application as uncontested but reconvened to assess the possible waiving of arrears for the L1 application if the Tenant agreed to vacate.
7. The Tenant attended the second hearing on June 5, 2026 and again fully engaged her right to participate. The Tenant did not dispute that she disconnected from the first hearing and did not rejoin and provided no explanation for her actions. I also note, this review request does not provide any reason for the Tenant's actions of disconnecting from the first hearing.
8. Given the above, I find that the Tenant was reasonably able to participate in the proceedings and fully engaged her right to do so.

Was the Tenant afforded a procedurally fair hearing?

9. In the review request, the Tenant levels various allegations with respect to her ability to participate and lead evidence. The Tenant states that the presiding Member was dismissive and lacked judicial impartiality.
10. The hearing recordings confirm that the Tenant was afforded opportunity to lead her evidence. At around 2:03:33 of the May 11, 2026 hearing, the Member asked the Tenant to provide her testimony and evidence which the Tenant did. At around 2:21:21, the Tenant participate in possible options for a consent prior to leaving the hearing.
11. I acknowledge that from time to time, the Member interrupted the Tenant which made the Tenant frustrated and she continued to talk over the Member as can be heard at around 1:52:03. The recordings confirm that the Member's interruptions were related to the Tenant's repeated testimony and failure to follow direction.

12. With respect to the evidence issue, the Tenant was afforded opportunity to lead her evidence but was often ill prepared and unable to direct the Member to her documentary evidence in the Tribunals Ontario Portal. The claims that the Tenant was not afforded the opportunity to lead evidence is not supported by the Board record.
13. When the matter reconvened on June 5, 2026, the Tenant provide no explanation for the reason she disconnected from the first hearing nor steps taken to rejoin. Rather, the Tenant continued to attempt to re-argue her position on the issues raised at the first hearing. At around 00:18:00 of the hearing recording, the Member abruptly asks the Tenant to stop taking over her and reminds that Tenant that her issues were addressed at the first hearing. The Tenant continued to re-argue her position and failed to follow the direction of the Member.
14. Given the above, I do not find that the Tenant was denied a procedurally fair hearing. While I acknowledge the Member frequently interrupted the Tenant, it is clear from the recordings that it was to move the matter forward when the Tenant continued to interrupt to re-state her position.
15. The Tenant states in the review request that the Member made material factual errors and misapplied the Act. These vague statements are not supported by any greater detail. I have reviewed the order and cannot find any errors in law.
16. With respect to the L2 application, if the Tenant intended to challenge the Landlord's evidence, the time to do so was at the first hearing. When the Tenant disconnected and failed to rejoin, the matter proceeded as uncontested. The Member's decision is based on the evidence led at the hearing and the decision to terminate the tenancy due to the valid purchase and sale agreement and genuine intention of the Landlord and purchaser was based on the evidence led at the hearing. The decision falls within a reasonable range of outcomes.
17. Overall, the Tenant's review seeks to challenge the decision made by the Member. The review essentially pleads that the result is unfair. In effect, in the request for review, the Tenant seeks to revisit the Member's conclusion in its entirety.
18. The Board has published Guideline # 8, entitled "Review of an Order", in order to assist parties in understanding how the Board normally approaches issues that arise. It is not binding on me but I find it informative, useful and choose to follow it. As noted in Guideline # 8, errors of fact can be successful grounds for review but only where the error of fact which "was material to the decision, and **was clearly an unreasonable finding considering the evidence** which was before the Member" [emphasis added]. Here, the Tenant's request for review contains a wide rejection of the Member's findings of fact but there is nothing in the request for review suggestive of the possibility that there was no evidence to support the Member's findings of fact, or that the Member applied incorrect principles or considerations in arriving at her findings of fact, or that the findings were otherwise unreasonable or capricious.

19. In this case, the Member was in the best position to admit and consider the parties' relevant evidence and to make findings of fact. Having found the Tenant failed to pay the rent owing and the Landlord entered into an agreement of purchase and sale and the purchaser intends to move into the rental unit, it was reasonable for the Member to issue the non-voidable eviction order.
20. With respect to the L1 application, in my estimation, the Member's conclusions are based on an evaluation of the sufficiency of the evidence presented by both parties at the hearing. I will not interfere with the assessment of the evidence by the Member of first instance, who had the opportunity of observing the witnesses and of hearing the evidence in its totality.
21. The Tenant has failed to demonstrate that a serious error may exist in the June 19, 2026 order or that serious errors occurred in the May 11 and June 5, 2026 hearings. The request to review the order must be denied.

It is ordered that:

1. The request to review order LTB-L-087915-25 issued on June 19, 2026 is denied. The order is confirmed and remains unchanged.

June 25, 2026

Date Issued

Dana Wren

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.