



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

Citation: Huynh v Faizan, 2026 ONLTB 50899

Date: 2026-06-26

File Number: LTB-L-016152-26-RV

In the matter of: Lower unit, 278 LAKEVIEW PARK AVE
OSHAWA ON L1J7M5

Between:	Tri Thi Huynh	Landlord
	And	
	Haider Faizan	Tenant

Review Order

Tri Thi Huynh (the 'Landlord') applied for an order to terminate the tenancy and evict Haider Faizan (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-016152-26, issued on June 15, 2026.

On June 25, 2026, the Tenant requested a review of the order.

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

Reasons:

1. 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 Tenant was not reasonably able to participate in the proceeding.
2. The Tenant argues that the Member made three errors. I will consider them in turn.

Denial of adjournment request

3. At the hearing of the application, the Tenant requested an adjournment. He gave several reasons for the request, including that he had not yet retained a lawyer to represent him or gotten legal advice from Tenant Duty Counsel (TDC).
4. The Member denied the request. In his Reasons for the denial, the Member found that the Tenant had not demonstrated that he had made reasonable efforts to obtain representation. He also noted that TDC are an independent service provided by Legal Aid Ontario, and are not always available on the hearing day. The Tenant argues that he

had a right to counsel, and that the Member erred by denying an adjournment necessary to give effect to that right.

5. On review, I am not restricted to the four corners of the Member's written reasons. If faced with a gap in the reasons, I can look to the record to see if it sheds light on the decision. (*Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 (CanLII), [2019] 4 SCR 653 (at para. 301)). In my view, in context it is clear that the Member considered two other important factors not explicitly mentioned in his Reasons.
6. First, the Notice of Hearing informed the Tenant that he could access TDC in advance by registering through their online system. The Tenant had had the opportunity to get legal advice before the hearing, instead of waiting for the hearing and hoping that TDC would be available that day without an appointment.
7. Second, it is clear that the Member considered that the Tenant had not been paying his rent, and owed a considerable sum. An adjournment would have significantly prejudiced the Landlord, as several months of additional arrears would likely have accrued. The Tenant does not say that he offered to pay new rent as it came due pending an adjourned hearing.
8. In the circumstances, the prejudice to the Landlord in adjourning the matter would clearly have outweighed the prejudice to the Tenant in proceeding after the Tenant had failed to get legal advice in a timely manner. I am not satisfied that the Member erred in denying the adjournment request.

Refusal to allow section 82 claims

9. At the hearing, the Tenant asked to raise claims under section 82 of the *Residential Tenancies Act, 2006* (RTA). However, he had not given notice of the claims as required by section 82(2). The Member found that the Tenant's explanation for failing to give the required notice was not satisfactory pursuant to section 82(1)(b). Accordingly, he did not permit the Tenant to raise the issues.
10. On review, the Tenant argues that the Member erred by not finding his explanation to be satisfactory. However, he does not say what his explanation was, or how the Member's finding that it was unsatisfactory constituted an error. He has not established that the Member erred in refusing to allow his claims.
11. Further, the Member's decision did not meaningfully prejudice the Tenant, since he is free to bring his claims by filing his own application against the Landlord.

Denial of section 83 relief

12. The Member found that it would be unfair to exercise his discretion to postpone eviction pursuant to section 83(1)(b) of the RTA. The Tenant argues that the Member failed to consider all the circumstances in reaching that conclusion. Specifically, he argues that

the Member rejected his testimony that he was temporarily unable to earn income because he was caring for a family member.

13. There is no merit to the Tenant's argument. The Member explicitly considered the Tenant's testimony regarding his caregiving responsibilities and his low income. There is nothing in the Member's reasons to suggest that he disbelieved the testimony.
14. However, the Member also considered that the Tenant had not made any rent payments in some time and did not appear to intend to make any payments, and that the Tenant had already had time to find a new home. In the circumstances, it would clearly have been unfair to the Landlord to postpone eviction, causing further arrears to accrue.
15. I am satisfied that the Member considered all the circumstances, and correctly concluded that it would be unfair to postpone eviction. The Tenant has not identified any error in the Member's reasoning.

Result

16. I am not satisfied that the hearing was unfair or that the Member erred. The review will be denied.

It is ordered that:

1. The request to review order LTB-L-016152-26, issued on June 15, 2026, is denied. The order is confirmed and remains unchanged.

June 26, 2026
Date Issued

Dale Whitmore
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.

