



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

File Number: LTB-L-050342-24-RV2

In the matter of: 1, 155 DUNN AVE
TORONTO ON M6K2R8

Between: Andjey Olexiuk Landlords
Andriy Mokrivskyy

And

Karen McCall Tenant

Review Order

Andjey Olexiuk and Andriy Mokrivskyy (the 'Landlords') applied for an order to terminate the tenancy and evict Karen McCall (the 'Tenant') because the Landlords, in good faith, require possession of the rental unit for the purpose of residential occupation for at least one year (hereafter referred to as the 'L2 Application').

The Landlords also claimed compensation for each day the Tenant remained in the unit after the termination date.

This L2 Application was originally heard on June 2, 2025, and resolved by the order LTB-L-050342-24, issued on July 7, 2025.

On August 1, 2025, the Tenant requested a review of the order LTB-L-050342-24, issued on July 7, 2025, and that the order be stayed until the request to review the order is resolved (hereafter referred to as the 'First Request to Review').

On August 6, 2025, the interim order LTB-L-050342-24-RV-IN was issued, staying the order LTB-L-050342-24, issued on July 7, 2025.

The First Request to Review was heard on August 18, 2025. Pursuant to the interim order LTB-L-050342-24-RV-IN, issued on December 8, 2025, the First Request to Review was granted and the L2 Application was directed to be heard *de novo*.

The L2 Application was heard *de novo* on January 27, 2026, and February 20, 2026, and resolved by the order LTB-L-050342-24-RV, issued on March 9, 2026.

On March 31, 2026, the Landlords requested a review of the order LTB-L-050342-24-RV, issued on March 9, 2026 (hereafter referred to as the 'Second Request to Review').

On April 2, 2026, the interim order LTB-L-050342-24-RV2-IN was issued, directing the matter to a hearing to determine whether the Second Request to Review should be granted or denied.

This Second Request to Review was heard by videoconference on May 28, 2026.

The Landlords, the Landlords' Legal Representative, Elina Vasilieva, the Tenant, and the Tenant's Legal Representative, Caryma Sa'd, attended the hearing.

Determinations:

Second Request to Review

1. The Landlords sought a review of the order LTB-L-050342-24-RV, issued on March 9, 2026, as they alleged that the order contained a serious error, as the presiding member concluded that the Landlords failed to pay the Tenant the required compensation in accordance with sections 48.1 and 55.1 of the *Residential Tenancies Act, 2006* (the 'Act').
2. The Landlords submit that the required compensation owed to the Tenant in accordance with sections 48.1 and 55.1 of the Act was deemed to have been duly paid to the Tenant, pursuant to the order LTB-L-050342-24, issued on July 7, 2025, and the interim order LTB-L-050342-24-RV-IN, issued on December 8, 2025.
3. The Landlords further submit that the presiding member erred in their interpretation of sections 48.1 and 55.1 of the Act, as the Landlords had advised the Tenant that they would be paying them the required compensation by waiving the rent for the rental period starting July 1, 2024, and ending July 31, 2024, in lieu of paying them an amount of pocket, as it appears from a copy of the letter signed by Elina Vasilieva, which was served contemporaneously with the N12 Notice of Termination with a termination date of August 31, 2024 (DOC-8005345, pages 1 to 3 of 133; Exhibit 1).
4. While it was not in dispute that the Tenant had paid the Landlords the rent for the rental period starting July 1, 2024, and July 31, 2024, the Landlords submit that the letter provided by Landlords to the Tenant (Exhibit 1) was unambiguous, and that the Board has found in other cases that the Landlords had abided by their obligation to compensate the Tenant in such circumstances, as it appears from:
 - The order CEL-91225-19, issued on August 21, 2020,
 - The order EAL-97383-21, issued on January 11, 2022,
 - The orders LTB-L-014312-22 and LTB-L-019527-22, issued on October 19, 2023,
 - The order LTB-L-098998-23, issued on June 20, 2024,
 - The order LTB-L-100358-23, issued on August 1, 2024,
 - The order LTB-L-071600-24, issued on March 7, 2025.
5. The Landlords submit that the Tenant's own conduct sabotaged the Landlords' efforts to comply with their statutory requirements to compensate the Tenant, and that once the

payment for the rental period starting July 1, 2024, and ending July 31, 2024, came to the Landlords' attention, they proceeded to send the Tenant a cheque equal to one month's rent, as it appears from a copy of the cheque dated August 18, 2024; (DOC-8005345, page 7 of 133; Exhibit 2).

6. The Landlords therefore sought for the Second Request to Review to be granted, and for the L2 Application to be re-heard.
7. The Tenant submits that the letter provided by the Landlords alongside the N12 Notice of Termination (Exhibit 1) equates to an offer to compensate the Tenant, as opposed to actually compensating the Tenant in accordance with sections 48.1 and 55.1 of the Act, and that as the Landlords had accepted the Tenant's rent payment for the rental unit starting July 1, 2024, and ending July 31, 2024, their proposal to compensate the Tenant by way of waiving the rent for the aforementioned rental period was rendered moot.
8. The Tenant submits that the case law presented by the Landlords was not relevant to these proceedings, as the fact pattern in those decisions suggested that the waiver of rent was accepted, and that the tenants in those cases were tangibly compensated.
9. The Tenant further submits that the Landlords' issuance of the cheque dated August 18, 2024 (Exhibit 2) equates to them recognizing that they had failed to previously compensate the Tenant an amount equal to one month's rent. The finding of fact that the cheque was provided to the Tenant beyond August 31, 2024, stemmed from the testimony and evidence provided during the hearing.
10. The Tenant submits that the Board's prior findings in this dispute involving the Landlords and the Tenant were not relevant, as the matter was directed to be re-heard.
11. The Tenant therefore sought for the Second Request to Review to be denied.

Analysis

12. For the sake of clarity, a matter being heard *de novo* (i.e. heard anew) "*is treated as if no previous decision had been made: there is no presumption of the correctness or validity of any prior finding, recommendation, or conclusion.*"¹
13. Accordingly, it was not an error for the presiding member to consider the L2 Application independently, *without deference to any earlier analysis about the matter*,² as they were not bound by the *obiter* made in the interim order LTB-L-050342-24-RV-IN, issued on December 8, 2025; or the determinations made in the since cancelled order LTB-L-050342-24, issued on July 7, 2025.
14. The fact pattern with respect to the letter provided by the Landlords to the Tenant in this case is not in dispute (Exhibit 1). Indeed, despite the indication that the Landlords would waive the rent for the rental period starting July 1, 2024, and ending July 31, 2024, the Landlords proceeded to accept the Tenant's rent payment for that same rental period.

¹ *Black's Law Dictionary*, 12th edition, Thomson Reuters, 2024, "*de novo*."

² *Black's Law Dictionary*, 12th edition, Thomson Reuters, 2024, "*de novo*."

15. While I note that the case law presented by the Landlords³ is not binding, I also note that they are distinct from the matter before the Board. In those cases, the tenants had either unduly prevented the landlords from abiding by their obligations by refusing to accept a payment or had actually accepted the compensation by way of a waiver of rent for a defined rental period which was not undone by the landlords' acceptance of rent for a same rental period. I therefore do not find these decisions to be persuasive under the circumstances.
16. I therefore do not find that the presiding member erred by concluding that the Landlords did not effectively compensate the Tenant as a result of the Landlords accepting rent for a rental starting July 1, 2024, and ending July 31, 2024. The presiding member's exercise of discretion was rationally connected to the submissions and evidence before them, and the exercise was therefore not capricious. Although another Board Member may have exercised their discretion differently, the presiding Board Member's decision is entitled to deference.
17. Although the Landlords may have attempted to compensate the Tenant by providing them with a cheque, the presiding member's determination that the subsequent cheque equal to one month's rent (Exhibit 2) was given to the Tenant after August 31, 2026, was also rationally connected to the submissions and evidence before them. Their exercise of discretion was therefore not capricious. Although another Board Member may have exercised their discretion differently, the presiding Board Member's decision is entitled to deference.
18. The Board's review process is not an opportunity for a party to re-argue an application that has been finally determined, nor is it an opportunity to present a better case by changing or perfecting their litigation strategy after the fact.
19. Accordingly, as I am not satisfied that there is a serious error in the order or that a serious error occurred during the proceedings, the Landlords' Second Request to Review the order LTB-L-050342-24-RV, issued on March 9, 2026, shall be denied.

It is ordered that:

1. The request to review the order LTB-L-050342-24-RV, issued on March 9, 2026, is denied.
2. The order LTB-L-050342-24-RV, issued on March 9, 2026, is confirmed and remains unchanged.

June 29, 2026
Date Issued

Alexandre Traboulsi
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
Toronto ON M7A 2G6

³ Order LTB-L-050342-24-RV2, issued on June 29, 2026, paragraph 4.

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.