



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

**Citation:** Pennytech Inc v Superior Building Group Limited, 2025 ONLTB 52666

**Date:** 2025-07-21 **File Number:**  
LTB-L-051417-24-RV

**In the matter of:** 301, 2 Armstrong Point Road Port  
Carling Ontario P0B1J0

**Between:** Pennytech Inc Landlord  
  
and  
  
Superior Building Group Limited Tenant

**Review Order**

Pennytech Inc (the 'Landlord') applied for an order to determine whether the *Residential Tenancies Act, 2006* (the 'Act') applies.

This application was resolved by order LTB-L-051417-24 issued on June 5, 2025.

On July 4, 2025, the Tenant requested a review of the order.

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

**Determinations:**

1. The Tenant's review request alleges that there is a serious error in the order and that the Tenant was not reasonably able to participate in the proceeding.
2. 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 the Tenant was not reasonably able to participate.

3. While the issue of whether the Tenant was not reasonably able to participate is not specifically alleged in the request, the allegation is included in Kristina Mastrilli's supporting affidavit and I have therefore considered the issue based on this submission.
4. In the affidavit, Kristina Mastrilli ('KM') states that she is the office manager and spouse of the owner of the corporate Tenant, Superior Building Group Limited. She submits that she and her spouse were unable to attend the hearing because they were travelling.
5. In *King-Winton v. Doverhold Investments Ltd.*, 2008 CanLII 60708 (Div. Ct.), *Wright v. Lallion*, 2024 ONSC 4132 (Div. Ct.) and *Ali v. Capreit*, 2025 ONSC 103 (Div. Ct.), the Divisional Court found that the tenant in each case was not reasonably able to participate in the scheduled Board proceeding, because each tenant had an explanation for mistakenly believing in an incorrect hearing date, or mistakenly believing they were not required to attend the scheduled hearing.
6. In this case, the Tenant's Legal Representative attended the hearing, however, no agent of the corporation attended to give evidence. Unlike the circumstances in the cases cited above, there was no confusion about the hearing date or about the requirement to attend the proceeding. The Tenant was represented by their legal representative. Their legal representative was permitted to present evidence and make submissions with respect to the Tenant's position on whether the *Residential Tenancies Act, 2006* (the 'Act') applies to the tenancy. There is no record of a request to adjourn the hearing so that KM and her spouse could personally attend nor does the request for review indicate that the Tenant's legal representative sought an adjournment at the hearing. Additionally, while they may have been travelling, the request does not provide any explanation as to why they could not have called in by telephone or attended online from the location they were visiting.
7. As such, in all of the circumstances, I am not satisfied that the Tenant was not reasonably able to participate in the proceeding.
8. With respect to the serious error alleged, the request states that the presiding Member seriously erred in her determination that their accommodation was temporary. The Tenant seeks to respond to the Member's finding and resulting conclusion.
9. Interpretation Guideline 8 - Review of an Order states that the Board's review process is not an opportunity to re-argue a matter that has been finally concluded. In *TSL-5169414-IN-RV*, the Board held at paragraph 10:

A review is not an appeal or an opportunity to change the way a case was presented. The purpose of the review process is not to provide parties with an opportunity of presenting a better or different case than they did at first instance. There is nothing in the record or in the request for review to support a determination that the Member applied improper principles in assessing the evidence introduced or that there was insufficient evidence before the Board to support its conclusions. I

would 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.

10. The Member found that the real substance of the transaction was temporary accommodations while a cottage was being constructed and the corporate Tenant was invoiced accordingly. The Member's findings are consistent with the evidence introduced at the hearing, and the findings are therefore rational. 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. The presiding Member considered the evidence that was before her and the relevant provisions of the Act, and determined that the accommodation was temporary and therefore, exempt pursuant to section 5(a) of the Act. The presiding Member provided sufficient reasons for her findings. The Tenant's disagreement with the Member's determination on the issue is not sufficient grounds for review.
11. While the Tenant alleges in the request that the Landlord's witness gave testimony that was untrue or failed to provide critical testimony that would have supported the Tenant's position, this does not amount to an error in the order or the proceedings. The opportunity to challenge the Landlord's evidence and present their own evidence on the issue was at the hearing stage, not at the review stage of the proceedings. The purpose of the review process is not to provide the parties with an opportunity of relitigating the issues in hopes of a better outcome.
12. The Tenant also states in the review request that the Member seriously erred in determining that the subject unit is governed by the *Innkeepers Act*. The order, however, does not state or make this finding, and this review submission is without merit.
13. The Tenant also states in the review request that the Member failed to acknowledge a stay of the Small Claims Court proceedings and the legal consequences of the stay imposed. This argument is also without merit, as the Small Claims Court matter was stayed precisely for the Board to make the determination the presiding Member made in her order. The Small Claims Court deferred to the Board's jurisdiction to determine whether the Act applies to the relationship between the parties.
14. As I am not satisfied that the Tenant was not reasonably able to participate in the proceedings and in the absence of a demonstratable error in the order or that a serious error occurred in the proceedings, the request to review the order must be denied.

#### Case Citation Issue

15. The request for review in this case was submitted and signed by the Tenant's Legal Representative, Eric Sabbah. While conducting this preliminary review of the review request, I could not locate the following court decisions relied on by Mr. Sabbah in his

request: *TNL-24884-12 (Re)*, 2012 CanLII 51605 (ON LTB); *Aiken v. Greenberg*, 1997 CanLII 12298 (ON SC); *Crescent Town Tenants' Assn. v. Toronto Community Housing Corp.*, 2009 ONCA 613; *Holley v. Northern Centre for Advanced Technology Inc.*, 2006 ONCA 142; and *Dickinson v. Oxford (County)*, 2006 CanLII 40070 (ON SCDC).

16. The neutral citation provided for *Aiken v. Greenberg* actually belongs to the case of *Toronto-Dominion Bank v. Otlantis Inc.*, 1997 CanLII 12298 (ON SC) is an action regarding whether a lease for a parking space is valid and enforceable after the mortgagee took possession of the property following a default in the mortgage. It has nothing to do with long-term residency in a hotel or inn not qualifying as temporary or vacationing accommodation as submitted by Mr. Sabbah in the review request. I was unable to find an *Aiken v. Greenberg* case on the CanLII.org website.
17. The neutral citation and hyperlink for *Crescent Town Tenants' Assn. v. Toronto Community Housing Corp.*, 2009 ONCA 613 directs the reader to the CanLII.org website to the case of *R. v. T.T.*, 2009 ONCA 613, an appeal of a trial judge's convictions of assault, uttering death threats and sexual assault. It also has nothing to do with reinforcing the principle that tenancy legislation should be interpreted to protect tenants, as submitted by Mr. Sabbah in his review request. I was unable to find a *Crescent Town Tenants' Assn. v. Toronto Community Housing Corp.* case on the CanLII.org website.
18. The neutral citations provided for the remaining cases do not appear to exist on the CanLII website nor am I able to find any cases with those names on the CanLII.org website. I also note that Mr. Sabbah relies on Rule 29 of the Board's Rules of Procedure, in more than one section of the review request. The Board's Rules of Procedure contain 27 rules. There is no such Rule 29 as submitted by Mr. Sabbah.
19. This case seems similar to other cases in which legal representatives have used generative artificial intelligence applications to draft factums or review requests, which have been found to sometimes create fake legal citations that have been dubbed "hallucinations."<sup>1</sup> Mr. Sabbah's reliance on these non-existent authorities caused the Board to spend valuable time, not only attempting to locate something which did not exist, but thereafter having to consider and issue a response to Mr. Sabbah's submissions that relied on non-existent authorities.
20. As stated by the Court<sup>1</sup>, it is the licensee's professional obligation to ensure human review of materials prepared by non-human technology and, at a bare minimum, not to submit case authorities that do not exist or that stand for the opposite of the licensee's submission. Mr. Sabbah, at best, failed to check the citations, Rules and legislation he was relying on in his review request. At worst, Mr. Sabbah submitted false citations in an attempt to mislead the Board. Even if the former is to be the circumstance in this case,

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<sup>1</sup> *Ko v. Li*, 2025 ONSC 2766 (CanLII), paras 14 & 21

Mr. Sabbah's failure to exercise due diligence in preparing and submitting the review request is a clear and serious breach of his professional obligations. Mr. Sabbah's failure caused unnecessary additional time to be spent on the review request. Similar future submissions from the representative may be viewed as an abuse of process and may be cause for an order against the representative personally to pay costs to the Board.

**It is ordered that:**

1. The request to review order LTB-L-051417-24 issued on June 5, 2025 is denied. The order is confirmed and remains unchanged.

**July 21, 2025**

**Date Issued**

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Candace Aboussafy

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.

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