



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

**Citation:** Francis v Amri, 2024 ONLTB 62395

**Date:** 2024-08-26

**File Number:** LTB-L-063763-23-RV

**In the matter of:** 1512, 1270 MAPLE CROSSING BLVD  
BURLINGTON ON L7S2J3

**Between:** Alan Francis Landlord

**And**

Azadeh Amri Tenant

### Review Order

Alan Francis (the 'Landlord') applied for an order to terminate the tenancy and evict Azadeh Amri (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.

This application was resolved by order LTB-L-063763-23 issued on October 31, 2023. The hearing was held on October 19, 2023 where the Landlord, the Landlord's legal representative and the Tenant's legal representative attended the hearing.

On May 16, 2024, the Tenant requested a review of the order and that the order be stayed until the request to review the order is resolved.

The Tenant's request to extend time to file the request for review was granted on May 17, 2024.

On May 21, 2024 interim order LTB-L-063763-23-RV-IN was issued, staying the order issued on October 31, 2023.

This application was heard in by videoconference on August 15, 2024.

The Landlord, his support Tim Francis, the Landlord's legal representative Allistair Trent (AT) and witnesses Lisa Barder (LB), Christopher Williams (CW) and Mary Saweres (MS), the Tenant and the Tenant's legal representative Ivana Stefanovic (IS) attended the hearing.

2024 ONLTB 62395 (CanLII)

**Determinations:**

1. The order under review is a Member-issued consent order dated October 31, 2023, based on an L2 application, N12 notice to terminate the tenancy. The tenancy was terminated effective June 30, 2024.
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 a serious error occurred in the proceedings or that the Tenant was not reasonably able to participate in the proceeding.
3. The Tenant's request for review is based on the grounds of being not reasonably able to participate in the proceedings.
4. The Tenant submits that she was improperly represented at the hearing and the terms of the consent order do not reflect her instructions as provided to her legal representative.
5. I have listened to the hearing recording in its entirety.
6. The issue of whether a consent order can be appealed has been considered by the Divisional Court in a number of landlord-tenant cases.
7. At the hearing, the parties were advised of the challenges to overturn an order made on party consent. The Divisional Court has stated that "parties ought not to be easily able to revisit Board orders that have been made on consent. The effective resolution of matters that come before the Board will be greatly impaired if parties can continually seek to revisit issues that they have earlier agreed to resolve." (Trust Construction Corporation v. McKie, 2017 ONSC 4702)
8. The Divisional Court also stated that "The policy of the courts is to promote settlement. The discretion to refuse to enforce a settlement should be exercised rarely... agreements, and joint submissions, are serious and they should not be easy to simply overturn. To allow parties, after the fact, to raise claims they could have or allow second thoughts after an agreement is struck would cause unnecessary waste on our Tribunals and Courts. No one, even with an order, would feel safe to rely on what has been agreed to. This would not be a just result." (Gent v. IMH Pool III LP, 2017 ONSC 7230 CanLII)

The Tenant's Evidence

9. The Tenant claims that she was ill on the date of the hearing and asked her legal representative CW to request to reschedule the hearing. I acknowledge the Tenant provided a medical note, dated May 23, 2024 detailing her condition on the date of the hearing. I note, the medical note indicated that the Tenant "wouldn't have been able to attend meetings on October 19, 2023.
10. The Tenant believes that she hired CW to represent her interests and was not aware that MS would attend the hearing on her behalf. In her affidavit, the Tenant asserts that she has never met MS previously, nor gave authorization to act on her behalf and would not have consented to the terms of the October 31, 2023 order.

11. To summarize, the Tenant testified that on the date of the hearing, she spoke with CW on around two occasions and instructed him to see an adjournment. She said that through the course of their conversations, CW said it would be unlikely for the Board to adjourn the matter. The Tenant said that CW then presented an offer to terminate the tenancy and advised the Tenant this would be the best outcome and the Tenant could appeal the consent order after issued. CW did not follow her instructions to decline the offer and entered the consent without her authorization. The Tenant said that she felt forced to accept the terms of the offer. She said she wasn't aware that CW was not physically present at the hearing and MS was sent in his place and she did not authorize this.
12. The Landlord takes the position that the Tenant participated via telephone with her legal representative and accepted the terms of the consent orally and via text message.
13. CW, was summonsed by the Landlord to testify at this hearing. He is a licensed paralegal and works with MS. CW said that he advised the Tenant in advance of the hearing that MS would attend and he would be available. He said that he works with MS as part of the practice and it is customary to share files and attend hearings. CW also said the Tenant had met MS and copied on various communications in the past, contrary to her affidavit.
14. CW said that on the date of the hearing, MS contacted CW, who was in another hearing, and said the Landlord had offered an extended termination date. In his conversation with the Tenant, he advised that it was unlikely that the Member would grant the adjournment but the Landlord has presented an offer to settle. He said the Tenant was presented with the first termination date and the Tenant declined and conversations took place regarding different termination dates. At one point, the Tenant sought the advice of another legal contact, but CW could not recall their name.
15. It was the testimony of CW that the Tenant accepted the termination date as specified in the order, he then sought consent via text. At the hearing, CW read into the record the text message between himself and the Tenant and shared it on screen. In the text message, the Tenant ultimately accepts the terms and writes "I give my consent". CW said that as a legal professional he is aware of his requirements and the Tenant was not forced into the consent terms.
16. MS was summonsed by the Landlord to testify at the hearing. She is a licensed paralegal and works with CW. MS was present at the hearing and said that the parties met in a breakout room and negotiated a settlement. She said that on several occasions she contacted CW who dealt directly with the Tenant. Several termination dates were presented and the Tenant accepted the date as specified in the order. MS said CW confirmed the Tenant consented to the terms both orally and via text and the matter proceeded before the Member to review and confirm the consent.
17. I note, the hearing recording confirms at around 2:50:02 of the recording, the Member confirms MS' role and that the Tenant has agreed to the terms.
18. Although MS stated that the matter proceeded to hearing after the Member denied the adjournment request, I believe MS may have not recalled correctly the series of events. I prefer the evidence of the Landlord's witnesses that the Member was not presented with an adjournment request, rather they opted to have private settlement discussions.

19. LB is a licensed paralegal and represented the Landlord at the October 19, 2023 hearing. She said the parties agreed to a private meeting and the Member did not hear an adjournment request. The meeting was lengthy as several termination dates were discussed and presented to the Tenant. The Tenant declined a termination date of around January/February 2024 and the Tenant asked for June 30, 2024 which the Landlord agreed to.
20. LB said MS requested some time to confirm the terms in writing with the Tenant which took around 45 minutes. The parties appeared before the Member and following a review of the terms and due diligence, the Member accepted the terms on consent.
21. It is the Landlord's position that the Tenant participated in settlement discussion on the hearing date which resulted in the final order.

### Analysis

22. With respect to the Tenants claim that MS did not properly represent her at the hearing, I disagree. It is not uncommon for legal representatives to share files and attend hearing on behalf of another. I am satisfied that CW put the Tenant on notice of MS's role and in fact CW continued to be the main point of contact for the Tenant on the hearing date.
23. Based on the evidence before the Board and on a balance of probabilities, I do not find that CW advised the Tenant that she would be successful in rescheduling. CW is familiar with LTB procedure and would have know that a "last minute" rescheduling/adjournment was unlikely as the Tenant was represented at the hearing.
24. The Tenant claims that she was unduly influenced to accept the offer to settle and she wanted to have her voice heard by the LTB. I prefer the evidence of the Landlord that the Tenant, in actual fact, did participate on the date of the hearing. She acknowledged various phone conversations with CW regarding termination dates. Had the Tenant been concerned that her interests were not represented at the hearing, she could have called to participate. The medical note submitted as evidence suggested the Tenant could not physically attend the hearing but there was no suggestion that the Tenant was unable to participate via telephone. Furthermore, the Tenant was aware of the settlement terms at the hearing but did not contact the LTB in the months following to inquire or challenge the terms of consent.
25. There is no evidence in this matter that the Landlord's legal representative applied undue or improper coercion upon the Tenant during the settlement discussions. I prefer the Landlord's evidence that Tenant was represented by legal counsel throughout the proceeding, discussions ensued regarding an extended termination date and the Tenant ultimately accepted the terms of settlement, fully aware of the consequences. There is no indication that the Tenant furthered her concern about her legal representation nor objections to the settlement following the October 2023 hearing, even in the absence of the final order.
26. While I appreciate that the Tenant may now be suffering from stress and anxiety due to having to find alternative housing, this does not constitute reason to invalidate the consent order.

27. I cannot find that the Board erred in issuing this order. The evidence shows that the Tenant participate in the final outcome of her tenancy.

28. Accordingly, the Tenants review request is denied.

**It is ordered that:**

1. The request to review order LTB-L-063763-23 issued on October 31, 2023 is denied. The order is confirmed and remains unchanged.
2. The interim order issued on May 21, 2024 is cancelled. The stay of order LTB-L-063763-23 is lifted immediately.

**August 26, 2024**  
**Date Issued**

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Dana Wren  
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.