



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

**Citation:** Trimmeliti v Lambe, 2023 ONLTB 45744

**Date:** 2023-06-29 **File Number:**  
LTB-L-020008-22-RV

**In the matter of:** 126 KILLINGTON AVENUE KLEINBURG  
ON L4H3Z6

**Between:** Alesandra Trimmeliti Landlord

**And**

Cindy Trudeau Tenants  
John Lambe

### Review Order

Alesandra Trimmeliti (the 'Landlord') applied for an order to terminate the tenancy and evict Cindy Trudeau and John Lambe (the 'Tenants') because:

- the Landlord in good faith requires possession of the rental unit for the purpose of residential occupation for at least one year.

The Landlord also claimed compensation for each day the Tenants remained in the unit after the termination date.

This application was resolved by order LTB-L-020008-22 issued on February 9, 2023.

On March 9, 2023, the Tenants requested a review of the order and that the order be stayed until the request to review the order is resolved.

On March 16, 2023, interim order LTB-L-020008-22-RV-IN was issued, staying the order issued on February 9, 2023.

This application was heard by videoconference on June 14, 2023.

The Landlord, the Landlord's husband, Alex Trimelli, the Landlord's legal representative, Marina Sturino, the Tenants, and the Tenants' legal representative, Sridhar Mula, attended the hearing.

### Determinations:



1. In their request to review the Tenants claim that they were not reasonably able to participate in the proceedings because they attended the hearing without their legal representative. The Tenants further submitted that the Hearing Member made a serious error by denying the Tenants' request to adjourn the hearing, so that their legal representative of choice could represent them at the hearing.

Evidence and Submissions:

2. The hearing of the Landlord's application took place on January 10, 2023.
3. The Board record indicates that the Notice of Hearing was mailed to the Tenants on November 28, 2022.
4. The Tenants attended the hearing without their legal representative. The Tenants requested an adjournment of the matter at the outset of the hearing, and then again during the hearing, so that their legal representative could attend the hearing.
5. The Hearing Member denied the Tenant's request to adjourn the hearing. The Board record indicates that the Hearing Member provided the Tenants with the option of either proceeding that day after speaking with tenant duty counsel or having their representative attend the hearing later in the day. The Tenants rejected the options presented to them and insisted that the matter be adjourned to another day when their legal representative was available. The Member gave the Tenants time to speak to tenant duty counsel and to prepare for the hearing.
6. The Tenant JL testified that the Tenants received the Notice of Hearing just before Christmas 2022. According to JL, he had contacted their legal representative a day or two after receiving the Notice of Hearing, but was unable to retain the services of the legal representative at the time, because he did not have sufficient funds to do so. JL is the sole provider for the family. JL's wife, the other named Tenant, has serious medical issues and is on dialysis. JL could not recall when exactly he first spoke to the Tenants' legal representative, or how many times he spoke to him before the hearing. JL also did not recall whether the legal representative advised him at the time that he was not available to attend the hearing on January 10, 2023.
7. The Tenants submitted that they exercised reasonable diligence in obtaining legal representation before the hearing of January 10, 2023. According to JL, the Tenants were financially not able to obtain legal representation until January 9, 2023, one day before the hearing, when they were able to secure sufficient funds. On January 9, 2023, at 4:22 p.m., the Tenants' legal representative sent an adjournment request to the Landlord's legal representative and also filed a copy of the same letter with the Board. The Tenants' legal representative stated in the letter that he was booked in other courts on January 10, 2023, in the morning and afternoon; therefore, he could not attend the Tenants' hearing.
8. The Tenants' legal representative was present at the review hearing; however, he did not confirm or deny the Tenant's testimony.



9. The Landlord opposed the Tenants' request to review. According to the Landlord, the Tenants had an adequate opportunity to participate in the proceedings. The Hearing Member stood the matter down so that the Tenants could consult with tenant duty counsel and contact their legal representative. The Landlord's position was that the Tenants were not diligent in retaining a counsel who could represent them at the hearing. The Tenants waited until the last minute to retain counsel of their choice, who was not available. According to the Landlord, this was simply a delay tactic on behalf of the Tenants.

**Analysis:**

10. The issues in this request to review are whether or not the Tenants were reasonably able to participate in the proceedings and whether the Hearing Member made a serious error in denying the Tenants' request to adjourn the hearing so that the Tenants' legal representative of choice could attend the hearing.
11. The Tenants have the burden of leading sufficient evidence to establish that they were not reasonably able to participate in the original hearing and that the Hearing Member made a serious error in denying the Tenants' request to adjourn the hearing.
12. Based on the evidence and submissions before me, I am not satisfied the Tenants met that burden of proof. I say this for a number of reasons.
13. First, the Tenants were present at the hearing. The Tenants had an opportunity to consult with tenant duty counsel before the hearing. The Member held the hearing down so that the Tenants could consult with tenant duty counsel, prepare for the hearing, and contact their legal representative of choice. As such, the Tenants had an adequate opportunity to participate in the hearing.
14. Second, the granting of adjournments is at the discretion of the Member hearing the application. Pursuant to s. 21 of the *Statutory Powers Procedure Act, 1990, (SPPA)*, an adjournment will only be granted by the Board if it is required to permit an adequate hearing to be held.
15. Section 10 of the *SPPA* states that a party may be represented by a representative at a hearing. However, the right to representation is not absolute and an adjournment is not automatically granted when it is requested on this ground. The onus is on the party wishing to be represented to make all reasonable efforts to find a lawyer or paralegal able to represent them at the hearing once they become aware of the hearing date.
16. In this instance, the Tenants had sufficient notice of the hearing; however, the Tenants did not retain legal representative of choice until the day before the hearing. If the Tenants were unable to retain the legal representative of their choice, they should have explored other alternatives of obtaining legal advice, as is provided on the Notice of Hearing. The Tenants did not do so.



17. Lastly, I found the Tenants' evidence vague at times and as such not persuasive. For example, The Tenant JL could not recall when the Tenants received the Notice of Hearing, when he spoke to the Tenants' legal representative, or how many times, and whether they discussed the date of the hearing at all.
18. As a result, I am not satisfied that the Tenants established that they were not reasonably able to participate in the proceedings, or that the Member made a serious error by denying the Tenants' request to adjourn the matter so that the Tenants' legal representative of choice could attend the hearing.

**It is ordered that:**

1. The request to review order LTB-L-020008-22 issued on February 9, 2023 is denied. The order is confirmed and remains unchanged.
2. The interim order issued on March 16, 2023 is cancelled. The stay of order LTB-L-020008-22 is lifted immediately.

**August 10, 2023**

**Date Issued**

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Jana Rozehnal

Member, Landlord and Tenants 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.