



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

**Citation:** Feldman v Rabikovich, 2023 ONLTB 31371

**Date:** 2023-04-06

**File Number:** LTB-L-020167-22-RV

**In the matter of:** Room # 3, Basement, 51 FISHERVILLE RD  
NORTH YORK ON M2R3B8

**Between:** Rita Feldman Landlord

**And**

Vladimir Rabikovich Tenant

### Review Order

Rita Feldman (the 'Landlord') applied for an order to terminate the tenancy and evict Vladimir Rabikovich (the 'Tenant') because:

- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant;
- 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 Tenant remained in the unit after the termination date.

This application was resolved by order LTB-L-020167-22 issued on March 8, 2023.

On March 23, 2023, the Tenant requested review of the order and that the order be stayed until the request to review the order is resolved.

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

### Determinations:

1. 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. I say this for the following reasons.

2. This application is about how the tenancy came to an end. The Landlord served the Tenant with an N12 notice to terminate the tenancy for Landlord's own use and an N5 notice of termination for substantial interference.

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3. The hearing was held on January 9, 2023 where the Landlord and legal representative, Tenant and legal representative attended. In the order issued March 9, 2023, the presiding Member made finding of fact with respect to whether or not the Act applied and the N12 notice. As the Member made a final determination that the tenancy shall terminate in accordance with the N12 notice, the Member chose not to undertake an analysis of the N5 notice.
4. The substance of the review application is that the Landlord failed to serve a valid N12 notice or served a notice in bad faith. In the request to review, the Tenant also provides significant submissions on the allegations in the N5 notice.
5. The Board granted the Landlord's application based on finding of fact. The presiding Member found that the Act applies to the rental unit and the Landlord served the Tenant with an N12 notice to terminate the tenancy in good faith.
6. The review essentially pleads the result is unfair. The request does not identify any serious errors made in the hearing order. No evidence was before the Board in support of the proposition that the rental unit is exempt under the Act nor Landlord served the Tenant with the N12 notice with improper intention. The Tenant, at the original hearing, had every opportunity to make submissions and defend their position.
7. The request to review seeks to revisit the presiding Member's decision. While the Tenant clearly disagrees with the decisions, the purpose of the review process is not to provide parties with an opportunity to relitigate the issues. I would not interfere with the assessment of the evidence by the presiding Member, who had the opportunity of hearing the evidence in its totality.
8. Given all of the above, 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 Tenants were not reasonably able to participate in the proceeding. As a result, the request for review must be denied.

**It is ordered that:**

1. The request to review order LTB-L-020167-22 issued on March 8, 2023 is denied. The order is confirmed and remains unchanged.

**April 6, 2023**  
**Date Issued**

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Dana Wren  
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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