

CITATION: Ashley Manor Housing Corporation v. Malcolm, 2025 ONSC 6056
OSHAWA DIVISIONAL COURT FILE NO.: DC-25-00001690-0000
DATE: 20251027

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: ASHLEY MANOR HOUSING CORPORATION, Landlord/Respondent

AND:

HOPETON MALCOLM, Tenant/Appellant

BEFORE: The Hon. Mr. Justice R.E. Charney

COUNSEL: Ashley Manor Housing Corporation, Unrepresented, Landlord/Respondent
Hopton Malcolm, Self-Represented, Tenant/Appellant

HEARD: In Writing

ENDORSEMENT – RULE 2.1

- [1] The Tenant’s Notice of Appeal dated September 12, 2025 was referred to me by the Registrar’s Office.
- [2] The Notice of Appeal seeks to appeal from a Review Order of the Landlord and Tenant Board (LTB) dated August 13, 2025.
- [3] On September 25, 2025, I directed the Registrar to give notice to the Appellant that the Court was considering making an order dismissing his appeal under rule 2.1.01. The Appellant was invited to make written submissions explaining why the appeal should not be dismissed.
- [4] My Endorsement, dated September 25, 2025, stated:

The actual decision of the LTB is dated March 26, 2025.

On March 26, 2025, the Tenant filed a motion to set aside the order. The Tenant’s motion was dismissed on May 21, 2025.

On June 1, 2025, the Tenant filed a request to review the order as permitted by s. 209(2) of the *Residential Tenancies Act*. The Tenant’s request to review the order was dismissed by the LTB on July 9, 2025.

The July 9, 2025 decision of the LTB appears to be the final order of the LTB. The Tenant did not appeal this Order within 30 days, as required by s. 210 of the *Residential Tenancies Act*.

Instead, the Tenant requested a review of the review order on July 15, 2025. That request to review was denied by the LTB on August 13, 2025.

On August 21, 2025, the Tenant filed another request to review. On August 27, 2025, the LTB dismissed that request to review, citing the Board's Rules of Procedure that state: The LTB will not consider a further request to review the same order or to review the review order from the same requesting party.

The Notice of Appeal appears on its face to be out of time. The Appellant is not appealing from the final decision of the LTB dated March 26, 2025, or from the Review Decision dated July 9, 2025. Seeking multiple reviews of the same order appears to be an abuse of process.

[5] The Appellant provided his response. His response addresses why he is in arrears with his rent, and his efforts to resolve this matter with his Landlord. He also explains that he is self-represented and was not familiar with the appeal process.

[6] Sections 209 and 210 of the *Residential Tenancies Act*, 2006, S.O. 2006, c. 17 (RTA) provide:

209 (1) Except where this Act provides otherwise, and subject to section 21.2 of the Statutory Powers Procedure Act, an order of the Board is final and binding.

Power to review

(2) Without limiting the generality of section 21.2 of the Statutory Powers Procedure Act, the Board's power to review a decision or order under that section may be exercised if a party to a proceeding was not reasonably able to participate in the proceeding.

Appeal rights

210 (1) Any person affected by an order of the Board may appeal the order to the Divisional Court within 30 days after being given the order, but only on a question of law.

[7] The LTB's power to review its own decisions is further detailed in Rule 26 of the LTB Rules of Procedure. Rule 26.18 makes clear that a party may request only one review of the same order. It provides:

26.18 The LTB will not consider a further request to review the same order or to review the review order from the same requesting party.

[8] A party to a LTB proceeding may appeal either from the original final decision of the LTB, or, if it seeks a review of that decision, from the Review Decision. Either way, the appeal

must be brought within 30 days of the decision pursuant to s. 210(1) of the RTA. There is no right to review a review decision, and a party cannot extend the appeal period by seeking to review a review decision. In the present case, the Tenant's request to review the LTB decision was dismissed on July 9, 2025, and the appeal period ended on August 9, 2025.

- [9] Rule 2.1.01 permits the court to stay or dismiss a proceeding if the proceeding appears on its face to be frivolous or vexatious or otherwise an abuse of process of the court: In *Gao v. Ontario (Workplace Safety and Insurance Board)*, 2014 ONSC 6100, at para. 9; *Scaduto v. Law Society of Upper Canada*, 2015 ONCA 733, at paras. 8-9.
- [10] I understand that the Appellant is self-represented and unfamiliar with the rules of the court. But self-represented litigants are still required to comply with those rules.
- [11] In the present case, the Tenant's appeal is out of time. While the Court can extend the time to bring an appeal, the Tenant must bring a motion for an extension of time addressing the following matters:
- a. whether the moving party formed an intention to appeal within the relevant time.
 - b. the length of and explanation for the delay.
 - c. prejudice to the Respondent.
 - d. the merits of the appeal.
 - e. whether the justice of the case requires granting an extension.
- [12] The Respondent must be given an opportunity to respond to any such motion.
- [13] A motion for an extension of time to appeal may be brought as a motion in writing under Rule 37.12.1, particularly if the motion is not opposed.
- [14] Accordingly, the appeal is dismissed, without prejudice to the Tenant's right to bring a motion for leave to appeal.

Justice R.E. Charney

Date: October 27, 2025