

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: ABAS RAHIMI, Landlord/Respondent

AND:

RANDY LAFONTE and ANNA-LISE PRESTON, Tenant/Appellant

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

COUNSEL: Abas Rahimi, Self-Represented

Randy Lafonte and Anna-Lise Preston, Self-Represented

HEARD: In Writing

ENDORSEMENT

[1] On December 12, 2025, I directed the Registrar to give notice to the Appellants that the Court was considering dismissing the appeal pursuant to Rule 2.1.01 of the Rules of Civil Procedure as frivolous, vexatious and an abuse of process: *Rahimi v. Lafonte*, 2025 ONSC 6995.

[2] That direction stated as follows:

The Notice of Appeal seeks to appeal from a Review Order of the Landlord and Tenant Board (LTB) dated November 19, 2025.

The actual decision of the LTB is dated September 10, 2025. That decision is a consent order terminating the tenancy unless the Tenant voided the Order by payment of \$36,186 on or before September 25, 2025.

On September 17, 2025, the Tenant filed a request to review the order as permitted by s. 219(2) of the *Residential Tenancies Act*. The request to review was dismissed on October 10, 2025.

On October 10, 2025, the Tenant filed a request to review the October 10, 2025 Order. The Tenant's request to review that order was dismissed by the LTB on November 12, 2025.

On November 12, 2025, the Tenant filed a request to review the Order of November 12, 2025. The Tenant's request to review that order was dismissed by the LTB on November 13, 2025.

On November 18, 2025, the Tenant filed a request to review the Order of November 13, 2025. The Tenant's request to review that order was dismissed by the LTB on November 19, 2025.

The November 19, 2025 Order is the Order which the Tenants seek to appeal.

The September 10, 2025 Order was a consent order. While s. 210(1) of the *Residential Tenancies Act*, 2006, provides that an appeal lies to the Divisional Court from a decision of the LTB, but only on a question of law, s. 133(a) of the Courts of Justice Act stipulates that no appeal lies from a consent order without leave of the court: *Ravadgar v. Kaftroudi*, 2023 ONSC 5471, at paras. 11 to 19; *Hughes v. Mehraban*, 2023 ONSC 5759, at para. 3.

Moreover, the October 10, 2025 decision of the LTB, dismissing the Tenant's first request to review 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 series of reviews of the review orders.

On November 19, 2025, the final request was dismissed by the LTB, which cited 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 an abuse of process for two reasons:

- i. The Tenant cannot appeal from a consent order without leave;
- ii. Even if leave were not necessary, the appeal is out of time. The Appellant did not appeal from the final decision of the LTB dated September 10, 2025, or the review decision dated October 10, 2025. Seeking multiple reviews of the same order does not extend the appeal period and appears to be an abuse of process: *Ashley Manor Housing Corporation v. Malcolm*, 2025 ONSC 6056, at para. 8.

[3] The Notice - Form 2.1A was sent to the Appellants as per that direction.

[4] On December 29, 2025, the Appellants forwarded their response under Rule 2.1 to the Registrar. That response states:

This appeal is not frivolous, vexatious, or abusive. It raises serious and legitimate questions of law and procedural fairness arising from the Landlord and Tenant Board (LTB) proceedings. This Court is being asked

to consider whether there were errors of law and fairness, and we respectfully submit that there were several.

- [5] The Appellant also questions whether the September 10 consent order “was truly voluntary and informed”, and that Rule 2.1 is not appropriate where “real, arguable issues clearly exist”. The Appellants also argue that they were denied the ability to conduct a smudging ceremony as part of the hearing, and that this denied their right to meaningfully participate as Indigenous persons. They argue that the LTB failed to accommodate their spiritual and cultural needs.

Analysis

- [6] Rule 2.1.01 allows for the determination of whether the action is frivolous or vexatious at the very outset of the action. The process is in writing without an evidentiary record. It is aimed at clear cases. The process is not for “close calls”. The action is to be dismissed pursuant to Rule 2.1.01 only if the frivolous, vexatious, or abusive nature of the proceeding is apparent on the face of the pleading: *Scaduto v. LSUC*, 2015 ONCA 733, at para. 8.

- [7] Although proceedings which are clearly frivolous or vexatious on their face should not be permitted to proceed, care must be taken to ensure that a claim which includes a legitimate complaint is not summarily dismissed. As noted in *Gao v. Ontario WSIB and Ontario Ombudsman*, 2014 ONSC 6497, at para. 18:

While rule 2.1 should be applied robustly to bring an early end to vexatious proceedings, the matters should not [be] considered lightly or dismissively. Care should be taken to allow generously for drafting deficiencies and recognizing that there may be a core complaint which is quite properly recognized as legitimate even if the proceeding itself is frivolously brought or carried out and ought to be dismissed.

- [8] The Court’s “task in deciding a motion brought pursuant to R. 2.1.01 is to look beyond drafting deficiencies to determine the nature of the Plaintiff’s complaint and whether that complaint is frivolous, vexatious or an abuse of process”: *Mohammad v. McMaster University*, 2021 ONSC 3494.

- [9] The issue in the present case is not whether the appeal lacks merit, it is whether the Appellants may circumvent the rules of procedure and bring an appeal where the rules clearly provide that leave to appeal is required and that the appellants must bring a motion for an extension of time. The abuse of process in this case is an abuse of the procedural requirements.

- [10] Section 133(a) of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, provides that leave to appeal is required from a consent order. Section 133(a) states:

133 No appeal lies without leave of the court to which the appeal is to be taken,

(a) from an order made with the consent of the parties;

[11] In *Lou v. Abagi*, 2018 ONSC 1587, the parties entered into a settlement agreement that was incorporated into a consent order requiring the tenant to vacate his rental unit. The tenant then sought to appeal the order. Peterson J. held that no consent order from the LTB may be appealed without leave of the Court:

Section 133 of the *Courts of Justice Act* stipulates that no appeal lies from a consent order without leave of the court. The LTB termination order that is the subject of this appeal was made on consent of the parties, yet no leave has been obtained (or sought) by Mr. Abagi to bring the appeal.

[12] Peterson J. declined to adjourn the proceedings to permit the appellant to bring a motion for leave to appeal and quashed the appeal for failure to seek leave, and because it was “manifestly devoid of merit” and constituted an abuse of process.

[13] Similarly, in *Arnold v. Lulu Holdings Inc.*, 2021 ONSC 8125, Matheson J. was confronted with a case in which the consent itself was challenged or disputed. She concluded that leave to appeal was required, at paras. 34 – 37:

This appeal should also be quashed because no leave to appeal has been sought or granted.

Section 133 of the *Courts of Justice Act* provides that no appeal lies, without leave, from an order made with the consent of the parties. The appellant submits that leave is not required in this case because the consent is disputed on the appeal.

The appellant relies on *Ruffudeen-Coutts v. Coutts*, 2012 ONCA 65, however, that case does not hold that leave is not required when the consent is challenged. It does provide a test for the granting of leave from a consent order where the consent is challenged.

On its face, the LTB order is a consent order. This is further confirmed by the recording of the hearing. The majority of the court in *Ruffudeen-Coutts* held that “where the issue relates to the validity of the consent, leave to appeal should not be granted unless the evidence before the court on the leave application demonstrates that there is an arguable case that, at the time the agreement that formed the basis of the consent order was entered into, the moving party could not or did not consent”: at para. 64 (per Epstein J.). Further, the adjudicator’s determination should attract deference and the threshold for granting leave is high: at paras. 69 and 72 (per Epstein J.). The court did not hold that leave to appeal was not required.

See also: *Morgan v. Whing*, 2009 CarswellOnt 2927 (Div. Ct.), at para. 7, *Eldebron Holdings Limited v. Mason*, 2016 ONSC 2544, at para. 14; *Singh v. Mylvaganam*, 2018 ONSC 5955, at para. 2; *Faulknor v. Li*, 2025 ONSC 4415, at para. 7.

- [14] In this regard, the decision of the Divisional Court in *Trust Construction Corporation v. McKie*, 2017 ONSC 4702, at para. 6 is germane:

It is also a matter of concern that parties ought not to be easily able to revisit 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.

- [15] As *Arnold* makes clear, leave to appeal a consent order is required even if the consent itself is challenged or disputed.

Conclusion

- [16] The Notice of Appeal in this case must, therefore, be quashed.
- [17] As a result, the statutory stay of the LTB eviction order is also terminated: *Arnold*, at para. 39.
- [18] This decision is made without prejudice to the Tenants' right to bring a motion for an extension of time to seek leave to appeal from the consent order at issue, and, if granted, to seek leave to appeal. The motion for an extension of time to seek leave to appeal and the motion for leave to appeal shall be heard together.
- [19] Rule 62.02(1) provides that motions for leave to appeal from a tribunal decision are to be heard in writing by a panel of the Court in accordance with Rule 62.02.
- [20] The Tenant is directed to review the Consolidated Practice Direction for Divisional Court Proceedings, and follow the directions relating Divisional Court Proceedings. The Practice Direction is available on the Court's website at:
- <https://www.ontariocourts.ca/scj/practice/div-court-pd/>
- [21] Part E of that Direction deals with motions for leave to appeal to the Divisional Court and requires that all motions for leave to appeal are heard in writing and are to be filed in Toronto.

Justice R.E. Charney

Date: January 6, 2026