CITATION: Hatzitrifonos v. City Park Co-operative Apartments Inc., 2026 ONSC 1590
DIVISIONAL COURT FILE NO.: DC-25-00000415-0000
DATE: 20260317

SUPERIOR COURT OF JUSTICE – ONTARIO
DIVISIONAL COURT

RE: PAUL HATZITRIFONOS Appellant

AND:

CITY PARK CO-OPERATIVE APARTMENTS INC. Respondent

BEFORE: L. Brownstone J.

COUNSEL: Paul Hatzitrifonos, Self Represented

Safia J. Lakhani, for the Respondent

Anna Solomon, for Landlord and Tenant Board

HEARD at Toronto: March 16, 2026

ENDORSEMENT

[1] The appellant appeals an eviction order made by the Landlord Tenant Board on March 26, 2025, and the LTB's review order dated May 8, 2025.

[2] The appellant is a member of the respondent City Park Cooperative Apartments Inc, a housing provider incorporated under the *Cooperative Corporations Act*, RSO 1990, c. C.35. He has lived in the co-op for about 21 years.

[3] In October 2023, the co-op started eviction proceedings against the appellant at the LTB because of the appellant's arrears and the condition of his unit.

[4] The LTB hearing was held on three separate days in 2024. On March 26, 2025, the LTB released its decision that ordered the termination of the appellant's occupancy, required the appellant to move out of his unit by May 31, 2025, and required the appellant to pay arrears and compensation to the co-op.

[5] The LTB issued its review order on May 8, 2025, dismissing the appellant's request for review. It found there was no serious error in the decision and that the appellant was seeking to re-argue the case in the review hearing.

[6] The appellant appeals under s. 210 of the *Residential Tenancies Act*, S.O. 2006, c. 17. Under that provision, an appeal is restricted to questions of law. The standard of review is correctness.

Preliminary issue: Appellant's request for an adhourmnet.

[7] The appellant attended the virtual hearing of the appeal by telephone. He said he was at the hospital, as he has been having terrible night and day sweats. He was expecting to have blood work taken, the results of which would take about 90 days. He requested an adjournment.

[8] The co-op opposed the adjournment request, noting that the appeal date had been scheduled since September, that many adjournments and extensions had been sought throughout the proceedings, and that the ongoing delays had to come to an end.

[9] The court asked the appellant whether someone from the hospital could advise how long it would be before he was called for his bloodwork. The appellant advised that this was not possible because he did not wish to involve anyone at the hospital in his personal matters.

[10] The court asked whether the appellant had any medical documentation in support of his adjournment request. The appellant advised that he was not aware until he spoke with the court office on Friday that his matter was to be heard today, and that he did not have time to get medical evidence in support of his request.

[11] I note the following in respect of the history of this matter.

[12] On January 4, 2025, the date the LTB hearing was set to start, the appellant appeared and advised that he had "to be in the hospital right now" and the co-op's counsel had agreed to an adjournment. The appellant sought a six-month adjournment. The respondent asked that any return date be made peremptory on the appellant.

[13] The matter was scheduled to proceed on April 11, 2024. The co-op did not appear that day, an issue to which I will return later. When the parties reappeared on July 25, 2024, the appellant asked for an adjournment because he had a "massive headache." The LTB noted that the appellant did not have documentary evidence of a current medical condition and that the respondent noted there were significant safety hazards related to the member's unit.

[14] The appellant's adjournment request was denied. The LTB explained in its reasons:

> I denied the adjournment request for the following reasons. The Co-op Member did not have documentary evidence of a current medical condition, and future attendance had been made peremptory after the January 2024 adjournment. That January 2024 adjournment was granted because the Co-op Member alleged a medical issue. I find that the Co-op Member has been attempting to delay the proceeding with repeated requests to reschedule. He attempted another rescheduling of the hearing that was set for December 5, 2024, for medical reasons,

> but it, too was denied prior to the hearing. The Co-op alleged, and it had evidence, that another adjournment would be prejudicial to the Co-op, on the basis that there were significant concerns about the state of the unit, and the Co-op member had been refusing entry to the unit. I found that it would be prejudicial to the Co-op to grant another adjournment without documentary medical evidence of a reason to do so.

[15] As noted in the reasons, a further adjournment was sought and denied on December 5, 2024. After the LTB reasons were released at the end of March 2025, the member sought a review, a process required to be sought within 30 days of the decision. The appellant requested an extension of time to provide additional submissions after reviewing the audio recordings of the hearing. He stated that he needed an additional three to six months to finalize his review submissions. He said he did not get the audio recording until after the 30-day deadline for a review and that he had many hospital visits scheduled in the next three months.

[16] His request to extend the time to file additional submissions was denied. The LTB noted that the appellant did not request the audio recordings until 29 days after the order was issued. That was the day before the review deadline. The LTB found this was not a reasonable explanation for needing more time. The fact that the appellant had hospital visits coming up did not explain why he could not already have filed his request in a timely manner. The LTB found the request for an extension unreasonable and denied it.

[17] The appellant appealed the final LTB decisions to this court on May 20, 2025. On May 26, 2025, he was granted a certificate of stay pending appeal. On June 9, 2025, Faieta J. provided directions that the appellant was to serve and file all his materials no later than July 14, 2025. The co-op was to respond by July 31, 2025, and the LTB by August 7, 2025. Justice Faieta directed that if the appellant failed to perfect the appeal by July 31, 2025, the co-op could request an order dismissing the appeal as abandoned. He directed that a date was to be set for this appeal on the first available date after August 21, 2025. Justice Faieta directed that there would be a judicial case management conference.

[18] On September 5, 2025, Faieta J. issued further directions. He noted that a case conference had been scheduled for July 29, 2025, but did not proceed because the appellant advised the court he could not attend. Another conference was scheduled for September 10, 2025. The appellant advised he could not attend and provided a medical note that said that he suffers from excessive sweating and extreme anxiety. The medical note asked that the conference be adjourned until the end of October 2025.

[19] On September 10, 2025, Faieta J. noted that the appellant attended the case conference by telephone from a hospital where he said he was waiting to be seen for extreme anxiety and sweating. Justice Faieta noted that the appellant had failed to meet the July 14, 2025, deadline and that the respondent did not file a request with the court to dismiss the appeal for delay. The appellant sought a further three months to file appeal material including the transcript. Justice Faieta granted the request and gave the appellant until December 11, 2025, to file his materials.

Justice Faieta noted that the appellant was warned that no further extensions of time would be granted and that the appellant has an obligation to diligently pursue this appeal or risk having it deemed abandoned.

[20] The court provided notice of the March 16, 2026, hearing date shortly after the September 10 case conference. The appellant claims not to have received the email, but the notice was sent to the same email address the appellant has been using to correspond with all parties and the court throughout these proceedings. The appellant spoke with the court the Friday before this Monday's hearing and joined the proceedings on time. He had his materials with him.

[21] I declined to grant the appellant's adjournment request. In assessing the request, I am obliged to balance the interests of the parties and the interests of the administration of justice in the orderly processing of matters on their merits: *Khimji v. Dhanan*i (2004), 2004 CanLII 12037 (ON CA), 69 O.R. (3d) 790 (C.A.) at para. 14.

[22] Here, the appellant has exhibited a pattern of seeking adjournments. These have repeatedly been sought on medical grounds without supporting evidence. The respondents have expressed concern about health and safety issues arising from the state of the appellant's unit, There is no evidence that these concerns have been attenuated. Indeed, the appellant advised the court that he has made arrangements for the "extreme cleaner" to attend, but this has not occurred since the date of the LTB hearing. The cleaning date is now scheduled for April 1, 2026.

[23] In weighing the parties' interests, and the interest in having this matter heard in an orderly and timely way, I determined that the adjournment should not be granted. The initial order of the LTB ordering eviction is almost a year old. There has been a pattern of repeated requests for adjournments and extensions. The appellant was able to participate fully and without interruption in the hearing. The interests of justice militated against granting an adjournment.

[24] Several hours after the conclusion of the hearing, the appellant submitted a note to the court. The note was not from a physician at the hospital but from a family physician. It stated:

> To whom it may concern
>
> The above patient [referencing the appellant] came in to see me today. He had an appointment with his endocrinology today and told me what they talked about. He is dealing with massive night/day sweat for few years. Please excuse him for not attend court today.

[25] This note, had it been available this morning, would not have changed my decision on the adjournment. Nothing in the note supports a decision that the appellant was unable to attend or participate today on medical grounds. The evidence reveals that the appellant's sweats have been an issue for years, as the note states. The evidence is insufficient to warrant an adjournment.

The grounds of appeal

[26] The appellant submits the LTB erred in the following respects:

a. It failed to properly consider and draw appropriate conclusions from the evidence, including about the appellant's medical conditions and, relatedly, evidence that the extreme cleaners had attended his unit before and were going to return, as well as evidence that that his ability to work had been adversely affected because of problems in the film industry;

b. There was no evidence to support the conclusion that the appellant was in arrears, and the LTB ignored his evidence that he had requested to meet with the respondent to understand its basis for claiming he was in arrears and to work out a solution;

c. The LTB failed to appropriately consider and determine the appellant's request for relief under s. 83 of the *Residential Tenancies Act*;

d. The hearing should not have been revived after the co-op failed to attend on April 11, 2025; and

e. The LTB should have considered his medical evidence when considering his ability to participate in the hearing and his request for an adjournment.

[27] As noted above, appeals to this court are on questions of law alone. In *Canada (Director of Investigation & Research) v. Southam Inc*., [1997] 1 S.C.R. 748 at para. 35, the Supreme Court of Canada explained the distinction between questions of law and other issues as follows:

> Briefly stated, questions of law are questions about what the correct legal test is; questions of fact are questions about what actually took place between the parties; and questions of mixed law and fact are questions about whether the facts satisfy the legal tests.

[28] Making a factual finding where there is a complete absence of evidence is an error of law: *Micanovic v. Intact Insurance*, 2022 ONSC 1566 at para. 36.

[29] I turn to the appellant's grounds of appeal

a. Did the LTB fail to properly consider and draw appropriate conclusions from the evidence, including the appellant's medical conditions and, relatedly, evidence that the extreme cleaners had attended his unit before and were going to return, as well as evidence that his ability to work had been adversely affected because of problems in the film industry?

[30] The appellant submitted that the evidence about his medical conditions was crucial to his hearing and that the LTB utterly failed to consider it. He submitted that he provided the LTB with evidence that he has had cancer several times, and that he suffers from other conditions. The LTB ought to have expressly considered this evidence when determining whether he was able to

maintain his unit in the manner desired by the co-op. The LTB should have considered that in these circumstances, his plan to engage the extreme cleaners was sufficient to allay the co-op's concerns.

[31] The LTB carefully considered the evidence before it about the state of the appellant's unit and his efforts to clean it. The LTB referred to the appellant's medical issues. The LTB stated:

> 22. The Co-op served the Co-op Member with two N5C notices of termination, alleging clutter, hoarding, garbage and unsafe conditions in the unit. The first N5C notice of termination had a voiding period in the week of August 17, 2023. However, the Co-op alleges that the N5C notice was not voided, as they served a second N5C notice of termination on September 14, 2023, alleging that the unit was in the same condition as before, and that it had not improved.
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> 23. KB [a co-op representative] testified about an inspection of the unit carried out on September 5, 2023. He said that the unit was in a state of extreme hoarding, there was no room to walk around, the balcony was completely filled with objects, there were no visible free surfaces in the kitchen, there were no free pathways, and the entire unit was similarly cluttered. He submitted into evidence photos taken from that inspection that supported his description above. KB also said that the Co-op Member had never reported any clearing up activity between July 2023, when the hoarding was first noted, and September 2023, when the Co-op served the Co-op Member the second N5C notice of termination.
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> 24. KB said that the Co-op served the Co-op Member with a notice of entry to inspect the unit on July 19, 2024, immediately before the hearing on July 25, 2024. However, he said the Co-op Member denied entry.
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> 25. KB said that a notice of entry was served on the Co-op Member for an inspection December 4 or 5, 2024, but the Co-op was again denied entry. He said that he was standing outside the unit, and he could see from that position that there was no substantial change to the unit.
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> 26. The maintenance coordinator, J. Francis (JF), corroborated KBs evidence about the state of the unit. He said that he was present for the inspections. He said that he has inspected the unit a number of times, the Co-op Member promises them he will try and clean, but it is never much improved. JF said that when he attempted to enter on July 19, 2024, and the Co-op Member denied entry, JF could see through the doorway that the unit was in essentially the same state. JF said that the Co-op has tried to arrange pest control treatment, but the Co-op Member consistently denies them entry or permission to carry it out. JF submitted into evidence an email he sent to the general manager, dated December 5, 2023, in which he reports that a pest control technician said that the unit is in a horrendous condition and there is proof of dead bedbugs.

> 27. The Co-op Member said that he had an extreme clean done in April 2023. He said that he is only eligible for an extreme clean once per year. He said that he did lots of cleaning afterward, and he has tried to make pathways to walk around the unit.
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> 28. The Co-op Member said that KB has greatly exaggerated the negative state of the unit. He said that he is not a hoarder, and he is afraid to put belongings in his locker. The Co-op Member said that he has had cancer five times, and his health is holding him back from keeping the unit in an orderly state. He said that, nevertheless, he cleans the bathroom once or twice per month, he mops the floors, but he gets tired easily. The Co-op Member said that he is open to another extreme clean.
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> 29. The Co-op Member said that in the last two years he has thrown out a lot of things. He also said that the Co-op has failed to tell him what to do nor what he should throw out.

[32] Having summarized the evidence, the LTB concluded that:

> 35. The Co-op's evidence, largely uncontested by the Co-op Member, is that the unit was given a deep cleaning in April 2023, and it had deteriorated to a state of extreme clutter and lack of cleanliness by July 2023, three months later. It was largely unchanged when the Co-op inspected again in September 2023. The Co-op had photographic evidence of the unclean and cluttered state of the unit. The Co-op Member has repeatedly denied entry to the Co-op since that time. However, the Co-op's witnesses all said that they observe the unit, standing at the doorway, to be largely unchanged to date. The Co-op Member said that he mops and creates pathways, but there was no credible photographic evidence of it, nor was there any other documentary evidence that he has done so. In fact, the Co-op Member attempted to blame the Co-op for both his arrears, and also for the bad state of his unit, because they refuse to direct him how to get it into a satisfactory state. This is directly contradicted by the long-term efforts of the Co-op to work with the Co-op Member, serve him with multiple N5C notices of termination, and their patience with the Co-op Member's belated attempts to get help with extreme cleaning. His testimony about his health conditions holding him back, his inability to do effective cleaning, and his acknowledgement that it could use a deep clean, attested to the fact that the Co-op Member essentially agrees that his unit is in an unacceptable state.
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> 36. Consequently, I find, based on the above, that the Co-op Member has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Co-op or another member of the Co-op or occupant of the residential complex by keeping his unit in a state of extreme clutter and lack of cleanliness.

> Even when the Co-op Member has had assistance in cleaning his unit, he has been unable to maintain it in a state of ordinary cleanliness for more than three months.
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> 37. The Co-op has tried to work with the Co-op Member, they agreed to a conditional order to bring the unit into a reasonable state of cleanliness in December 2022, but the Co-op Member was still obliged to get the assistance of an extreme cleaning a few months after that agreement. The Co-op Member failed to bring his unit into a state of cleanliness even after the hearings for this application had begun. It was first heard in July 2024, and the Co-op's evidence was that little had changed by December 2024, the date of the next hearing. Therefore, I find that a conditional order would not be effective nor appropriate. This order will be for non-remedial termination of the Co-op Members occupancy in the Co-op.

[33] As is evident from the above, the LTB carefully reviewed and assessed the evidence before it and drew conclusions based on that evidence. The LTB did not ignore evidence that was before it. It expressly referred to the applicant's evidence about his medical condition.

[34] The LTB did not make specific mention of the film industry when considering the appellant's financial situation. However, the LTB expressly noted at paragraph 15 of its decision that the appellant testified that "things went out of control when he was receiving CERB during the Covid Pandemic". The appellant also testified before the LTB that there had been a film strike.

[35] The LTB found that the appellant has very limited income, and has had to resort to getting free food. The LTB noted that the appellant stated he could not afford another place to live.

[36] The LTB considered the appellant's evidence about his financial situation. The LTB is not required to refer to every piece of evidence before it. Further, the transcript shows that the LTB's conclusions were rooted in the evidence before it. It was up to the LTB to hear and review the evidence. It is not up to this court to reweigh the evidence; that goes beyond its appellate jurisdiction which is confined to review for errors of law.

[37] The LTB made no error of law in its treatment of the evidence.

b. Was there evidence to support the conclusion that the appellant was in arrears? Did the LTB ignore his evidence that he had asked to meet with the respondent to understand its basis for claiming he was in arrears and to work out a solution?

[38] The appellant asserts there was no or insufficient evidence that he was in arrears. He states that he asked the co-op for proof of his arrears, which was not provided. The appellant states he was not afforded an opportunity to meet with the co-op representatives to understand the arrears and make a plan for paying them.

[39] The LTB heard evidence from the co-op's representative and considered the co-op's ledger, which was submitted into evidence. The LTB summarized in detail the evidence provided by both the co-op and the appellant. The co-op representative testified that the co-op issues notifications

of arrears each month when the housing charge is due, that the co-op's notification informs the members that they should come to the office to discuss repayment or a payment plan, and that the Co-op Member has never come to the office to discuss a repayment plan. The co-op's representative also testified that the co-op attempted to discuss the arrears with the appellant and suggested ways of restoring his subsidy.

[40] The LTB found the appellant was inconsistent in his testimony. The LTB found the appellant persistently made late payments to the co-op. The LTB, having considered the evidence before it, found the total amount of arrears the appellant owed the co-op as of December 31, 2024, was $7,848.00. This included arrears of regular monthly housing charges owing to the date of the hearing, other unpaid housing charges, and the cost of filing the application. Refundable deposits were deducted from the amount owing by the Co-op Member.

[41] These are findings of fact rooted in the evidence. There is no question of law for this court to entertain.

c. Did the LTB fail to appropriately consider and determine the appellant's request for relief under s. 83 of the Act?

[42] The appellant submitted that he was entitled to relief under s. 83 of the Act and that the LTB failed to consider this. Section 83 of the Act gives the LTB power to refuse to grant an application or to order that an eviction or enforcement be postponed. The section provides some examples of situations where an application shall be refused, such as where the landlord is in serious breach of its responsibilities or the application is brought because the tenant has attempted to secure or enforce his legal rights.

[43] Because this application concerns a co-op, it is not s. 83 that applies, but s. 94.12. That provision permits the LTB to refuse to grant an application or to order that enforcement of its order be postponed. Like s. 83, examples of circumstances when the LTB shall have recourse to this provision are provided. They include where the application is brought because the member belongs to a member's association or the application is being brought because the member has attempted to secure or enforce his rights.

[44] The appellant submits that the length of time for which he has been a co-op member, his personal and medical circumstances, and his dire economic situation should have been considered by the LTB and he should have been granted relief under these provisions.

[45] The LTB expressly referred to "Section 83 Considerations" (later correctly referred to as s. 94.12). The LTB stated:

> Section 83 Considerations:
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> 30. The Co-op Member submits that he should not be evicted. He has lived in the unit for 20 years, and he said that he is essential to the Co-op because he supports other members, and he is known around the building.

> 31. The Co-op Member has very limited income, and he said that he often has to resort to getting free food. He said that he cannot find another place to live because it is too expensive.
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> 32. The Co-op submits that the Co-op Member should be evicted, as the state of the unit has been a problem for a number of years, they have tried to work with the Co-op Member, and there is no sign that anything has changed. The Co-op submitted into evidence a consent order, TSC-03675-22, issued on December 9, 2022, in which the Co-op Member consented to restore the unit to a reasonable state of cleanliness by February 28, 2023. They submit that, nevertheless, the Co-op Member did not have an extreme clean until April 2023, and when the unit was re-inspected a few months later in July, the unit had returned to a state of extreme clutter and it was a health hazard. The Co-op submits that even when the Co-op Member receives help to clean his unit, he is unable to maintain it for any length of time in a state of ordinary cleanliness.
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> …
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> I have considered all of the disclosed circumstances above in accordance with subsection 94.12(2) of the Residential Tenancies Act, 2006 (the 'Act'), and find that it would not be unfair to postpone the eviction until May 31, 2025 pursuant to subsection 94(1)(b) of the Act. Although the Co-op Members unit poses a health hazard to the Co-op, and I find his continued occupancy to be prejudicial to the Co-op and the surrounding units, he has lived in the unit for 20 years, it has been his long-term home, and he has a very limited income to find an alternative unit. I find that it is not unfair to provide the Co-op Member more time to find somewhere else to live.

[46] The LTB clearly considered the submissions and the applicable statutory provisions in making its decision. The LTB exercised its discretion to postpone the date of the termination of the appellant's occupancy under s. 94.12. The appellant has not pointed to any errors of law in this conclusion. A disagreement with how the factors were weighed does not amount to an error of law.

> d. Did the LTB err in reviving the hearing after the co-op failed to attend on April 11, 2025?

[47] The co-op and its counsel failed to attend the hearing on April 11, 2025. After waiting half an hour, the LTB stated that the appeal would be dismissed as abandoned. Before any order was taken out, counsel for the co-op advised the LTB that she had missed the date through inadvertence. Counsel made submissions that the hearing should not be dismissed. The LTB permitted the hearing to continue on July 25, 2025.

[48] The appellant states he did not receive the respondent's written submissions to the LTB asking that the matter continue. He did, in any event, receive notice of the next date, where he appeared and participated in the hearing (after his adjournment request was denied).

[49] There was no error in the LTB's decision to permit the hearing to continue once it received an explanation for the missed date. The LTB is entitled to make procedural orders to control its own process. Those procedural decisions are owed considerable deference: *Jendrika v. Intact Insurance Company*, 2025 ONSC 652 at paras. 26-27. The question is whether the decision-making procedure was fair having regard to all the circumstances: *Afolabi v. Law Society of Ontario*, 2025 ONCA 257, at para. 60. The appellant has demonstrated no error in this ruling, no unfairness, and no resulting prejudice. The appellant duly attended and participated in the continued hearing.

> e. Did the LTB fail to consider the appellant's medical evidence when considering his ability to participate in the hearing and his request for an adjournment?

[50] The LTB's reasons for refusing the appellant's adjournment request are set out at paragraph 14 above. The medical evidence to which the appellant referred on appeal is evidence from 2023. It does not appear to relate in any way to the hearing that was held in 2024.

[51] There was no breach of procedural fairness in this decision. The appellant was able to participate fairly and fully in the hearing. The finding that there were persistent attempts to delay the proceedings was open to the LTB on the record before it. It was entitled to refuse the adjournment request and did not breach procedural fairness in so doing.

[52] Finally, I note the appellant filed a brief of materials before this court, at least some of which appear not to have been before the LTB. I have reviewed the materials. I find that the materials do not meet the test in *Palmer v. The Queen*, 1979 CanLII 8 (SCC), [1980] 1 S.C.R. 759 for the admission of fresh evidence. Even if the evidence were admitted, it would have no effect on the result.

Disposition

[53] The appeal is dismissed. The co-op sought costs on a partial indemnity scale in the amount of $1,610.02. The appellant opposed this request based largely on his stated inability to pay.

[54] The amount sought is modest. Taking into account the modest amount sought, the case conference attendances, the respondent's status as co-operative housing, and the stated financial circumstances of the appellant, I find a fair, reasonable and proportionate amount for the appellant to pay in costs is $1,000.00, inclusive of HST and disbursements.

L. Brownstone J.

Date: March 17, 2026