



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

Citation: Beitinger v McLaughlin, 2023 ONLTB 44650

Date: 2023-06-12

File Number: LTB-L-030021-22-RV

In the matter of: 5 Coverdale Ave
Town of Cobourg Ontario K9A4H2

Between: Gerd Beitinger

And

Steven McLaughlin

I hereby certify this is a true copy of an Order dated

Jun 12, 2023

Landlord and Tenant Board

Landlord

Tenant

Review Order

Gerd Beitinger (the 'Landlord') applied for an order requiring Steven McLaughlin (the 'Former Tenant') to pay the Landlord's reasonable out-of-pocket costs that are the result of the Former Tenant's failure to pay utility costs they were required to pay under the terms of the tenancy agreement.

This application was resolved by order LTB-L-030021-22 issued on May 29, 2023.

On June 8, 2023, the requested a review of the order and that the order be stayed until the request to review the order is resolved.

A preliminary review of the request was conducted without a hearing.

Determinations:

1. I have listened to the March 2, 2023 hearing recording and I have reviewed the Board's application record. 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.
2. In the request to review the Tenant asserts a serious error was made when the presiding Member failed to follow "standard court/hearing procedure", did not swear parties in, did not exclude witnesses from hearing room, mishandling of evidence, hearing Member was not Member who wrote the order, did not permit cross examination, rushed the hearing and interpretation of evidence.
3. I can confirm the Member who heard the matter wrote the order issued May 29, 2023.
4. With respect to the issue of hearing format as serious error, I acknowledge the hearing did not follow standard procedure. However, I note it is not an error for a Member to deviate from that procedure if the Member deems there is a more expeditious manner to manage the hearing. In this case, the hearing Member explained her plan of approach to the

parties and invited submissions. The Landlord's representative agreed with the approach, the Tenant's representative remained silent on the matter but did question the procedure later in the hearing. I also note, the Member addressed each allegation individually and invited submissions from each party. The Tenant and the Tenant's representative actively participated throughout the hearing.

5. The hearing recording confirms the matter was not rushed and the issues were dealt with efficiently with all party participation.
6. With respect to the issue of swearing in the parties. At the onset of the hearing, the Member addressed a preliminary issue unrelated to this matter and upon completion inadvertently did not provide the standard pre-amble where such matters are addressed. However, the Tenant's representative did not address this at the time of the hearing. The Tenant's representative has experience before the Board and had opportunity to raise this at the hearing. Accordingly, I do not find this constitutes a serious error,
7. The hearing recording confirms the issue of the exclusion of the Landlord's witness was raised by the Tenant's representative at the hearing. The presiding Member considered the submissions and made a finding of fact which I will not disturb as the presiding Member was in the best position to assess the submissions on the matter.
8. The presiding Member explained to the parties that due to the volume of submissions in the portal she would not address each item. The presiding Member assured the Tenant's representative that she had reviewed the submissions, noted the differing version of events and would make her determination on the best evidence before her.
9. The Tenant's representative asserts that the Member erred in interpreting the evidence; specifically, the amount claimed for damages, receipt from Home Depot and assessment of the replacement mailbox and house numbers.
10. With respect to the damage claim, I note, the Member did state the amount claimed at the hearing and if the Tenant wanted to challenge the amount or context, the time to do that was at the hearing. In the event a clerical error was made with respect to the Home Depot receipt for light "fixtures" versus light "bulbs", the Tenant can request an amendment to the original order. Both parties provided submissions on the issue of the mailbox and house numbers and the Member made a determination on the best evidence before her. Again, I note the Tenant was afforded ample opportunity to provide submissions.
11. Although the Tenant claims he was not permitted to provide evidence and submit his evidence "in proper form", the hearing format did allow for all party submissions. The hearing recording confirms that the Tenant was aware of the issues to be determined at the hearing, and that the Tenant willingly exercised his right to participate in the hearing.
12. The hearing recording and application record show that there was sufficient evidence for the presiding Member to find, on a balance of probabilities, the costs claimed in the L10 application.
13. The presiding Member was in the best position to consider the parties' relevant evidence, and to make findings of fact. Since there was evidence for the adjudicator to conclude that the Tenant owed to the Landlord costs associated with rent, compensation and damages, the adjudicator's findings of fact are rational and entitled to deference.

14. The Tenant has therefore not demonstrated that a serious error may exist in the May 29, 2023 order, or that a serious error may have occurred in the proceedings. The request to review the order must accordingly be denied.

It is ordered that:

1. The request to review order LTB-L-030021-22 issued on May 29, 2023 is denied. The order is confirmed and remains unchanged.



June 12, 2023
Date Issued

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.