



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

Citation: Dupont/Lansdowne Holdings Inc. v Lasjone, 2024 ONLTB 4697

Date: 2024-01-19

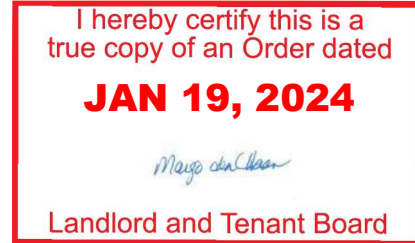
File Number: LTB-L-042070-22-RV

In the matter of: 108, 1401 DUPONT ST
TORONTO ON M6H2B1

Between: Dupont/Lansdowne Holdings Inc.

And

Lajosne Lasjone
Gabor Jozef Glonczi



Landlord

Tenants

Review Order

Dupont/Lansdowne Holdings Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Lajosne Lasjone and Gabor Jozef Glonczi (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was resolved by order LTB-L-042070-22 issued on March 10, 2023. The matter was originally heard on February 27, 2023. Only the Landlord's Legal Representative Victoria Orlandi was present at the hearing as of 3:41 p.m. when the matter was called.

On May 1, 2023, the Tenants requested a review of the order and that the order be stayed until the request to review the order is resolved. The Tenants also requested that the Board grant an extension of time to file the Review request on the basis that they only became aware of the Board's order on April 14, 2023 when the Sheriff attended the rental unit to enforce the eviction. The Tenants also requested to be put back into possession of the rental unit, as the order was enforced on April 14, 2023.

On May 2, 2023 interim order LTB-L-042070-22-RV-IN was issued, staying the order issued on March 3, 2023.

On May 23, 2023 the Review hearing was adjourned due to lack of time and scheduling overflow. A Request to Shorten Time filed by the Landlord on June 8, 2023 was granted on September 15, 2023 as pursuant to the Interim Order, the Landlord was unable to re-rent the rental unit until the matter was resolved.

This application was heard in by videoconference on October 26, 2023.

The Landlord's Legal Representative Victoria Orlandi, Tenant's Legal Representative E. Roeper, the Tenant Lasjone Glonczi, and Hungarian Interpreter Agneza Vujkov attended the hearing.



Determinations:

1. The basis for this request to review is that the Tenants were not reasonably able to participate in the hearing held on February 27, 2023.
2. In their request to review, the Tenants claimed that they were not reasonably able to participate in the hearing because they did not receive the Notice of Hearing from the Board or a copy of the Landlord's application and therefore were unaware that there was an application or a hearing.
3. The request to review states that on or about April 10, 2023, the Landlord informed the Tenants that "there is a file at the Landlord and Tenant Board for eviction" and that they owed money. The Tenants also claimed that they were "shocked when the Sheriff came to the door [on April 14, 2023] and stated that I had to leave."

Tenant's evidence

4. Through the interpreter, the Tenant Lasjone Glonczi (LG) testified that her English comprehension is not at a high level and that she understands limited things.
5. LG stated that she and her husband had moved into the rental unit a year or year and a half before the eviction and fell behind in rent payments at the end of 2022. She stated that she paid the arrears at the office when she fell behind. She also stated that she had never received documents with respect to arrears, nor an application, nor a hearing before the Board. She stated that she did not receive an order from the Board.
6. LG testified that she had lost the key to her unit along with the key for the mailbox "a couple of weeks" before the Sheriff attended the unit on April 14, 2023. She stated that she never got a new mailbox key. She agreed on cross-examination that prior to the few weeks before the Sheriff attending the unit, she had not experienced problems with accessing or opening the mailbox.
7. She stated that she was shocked when the Sheriff came to the rental unit on April 14, 2023 to evict the Tenants, and, had she known that she was going to be evicted, she would have asked for a payment arrangement.
8. LG testified that after someone in the office of the rental complex told her she would be evicted, she contacted a legal clinic on April 12, 2023.

Landlord's evidence

9. The Landlord submitted two letters to the Tenants from the Landlord's Legal Representative into evidence. The first letter, dated July 28, 2022, informs the Tenants that an L1 application was filed with the Board on July 27, 2022. It sets out the amount of arrears claimed and offers a repayment plan.
10. The second letter, dated February 13, 2023, has a subject line: "RE: LTB-L-042070-22 Upcoming Hearing." The letter states: "As you are aware, we have filed an L1 application at the Landlord and Tenant Board" and that the arrears owing were \$9,469.87. It suggested that the Tenant could contact the representative to discuss a possible payment agreement.



Analysis

11. The Certificate of Service for the N4 Notice of Termination (“N4 Notice”) indicates that on June 9, 2022 a representative of the landlord personally served the N4 Notice on the Tenants. At that time, the Tenants would have been aware that the Landlord claimed that arrears were owing.
12. The Landlord submitted evidence that on July 28, 2022 the Landlord’s Legal Representative sent a letter to the Tenants stating that the L1 application had been filed. On February 13, 2023, 2 weeks prior to the original hearing, the Landlord’s Legal Representative sent a letter to the Tenants about the “Upcoming Hearing” for the L1 application.
13. While LG testified that the mailbox key had been lost, it was clear from her testimony that this did not occur until shortly (“a couple of weeks”) before the Sheriff attended the unit on April 14, 2023.
14. LG claims that she was unaware of the application before the Board, but the letters from the Landlord’s Legal Representative entered into evidence would have been delivered approximately 8 months and at least one month prior to the Tenants’ inability to access the mailbox. They both clearly indicate that an application was filed and the second clearly states that there is an upcoming hearing. Neither were returned as undeliverable.
15. The Notice of Hearing was mailed by the Board to the Tenants at the rental unit on February 13, 2023. The order dated March 10, 2023 was mailed by the Board to the Tenants at the rental unit on that date. These were both prior to the date that the Tenant had issues with the mailbox. Neither were returned as undeliverable.
16. Even if the Notice of Hearing was not received (although as noted above it was not returned to the Board) the Tenants would have been aware of both the application and the “Upcoming Hearing” as described in the letters sent by the Landlord’s Legal Representative.
17. I find that although the Tenants may not have fully understood the documents that were sent, it is highly improbable that of the letters, Notice of Hearing, and order of the Board, none at all were received (as they were not returned as undeliverable). LG’s claim that the first she knew of the application was after the hearing and shortly before the eviction is not credible.
18. On the basis of the submissions made in the request, I am not satisfied that the Tenants were not reasonably able to participate in the proceeding.
19. The Interim Order Ordered LTB-L-042070-22-RV-IN issued May 2, 2023 stayed the eviction order, but by that time the eviction had already been enforced and the eviction order could therefore not be stayed.

It is ordered that:

1. The request to review order LTB-L-042070-22 issued on March 10, 2023 is denied. The order is confirmed and remains unchanged.



2. The interim order issued on May 2, 2023 is cancelled. The stay of order LTB-L-042070-22 is no longer in effect as the eviction had already taken place at the time the Interim Order was issued.

January 19, 2024
Date Issued



Margo den Haan
Member, Landlord and Tenant Board

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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.