



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

File Number: SOL-27195-22-RV

In the matter of: 2033 SUMMER WIND DRIVE
BURLINGTON ON L7M2T6

Between: Haiyong Wang

and

Christine Deluca
Stephen Deluca

I hereby certify this is a
true copy of an Order dated
Aug 16 2022
Landlord and Tenant Board

Landlord

Tenants

Review Order

Haiyong Wang (the 'Landlord') applied for an order to terminate the tenancy and evict Stephen Deluca and Christine Deluca (the 'Tenants') and for an order to have the Tenants pay the rent they owe because the Tenants failed to meet a condition specified in the order issued by the Board on March 9, 2022 with respect to application SOL-25156-21.

This application was resolved by order SOL-27195-22-RV issued June 21, 2022.

On July 8, 2022, the Tenants requested a review of the order.

On July 13, 2022 interim order SOL-27195-22-RV -IN was issued, staying the order issued on June 21, 2022.

The review request was held by videoconference on August 11, 2022.

The Landlord and Tenants attended the hearing.

Determinations:

1. On the basis of the submissions made in the request, I am satisfied that there is a serious error in the order or that a serious error occurred in the proceedings because the Tenants did not receive the Notice of Hearing.
2. The Board emailed the Notice of hearing to Steven DeLuca (SD) to the wrong email address.
3. The Board emailed the Notice to the correct email address for the Tenant, Christine DeLuca (CD) on May 26, 2022 at 11:15 a.m. CD has received Board correspondence

before by email on November 2, 2021 at 4:47 p.m for application SOL-25156-21 as well as the order issued on June 21, 2022. There's no explanation to account for the undelivered email which is a method of delivery that is very reliable.

4. The Landlord submits he was surprised and out of character for Steven DeLuca not to have attend the hearing on June 14, 2022 or at minimum reach out to him as he has in the past which appears to support a finding that SD was unaware of the hearing.
5. Giving the Tenants the benefit of the doubt, I find the Tenants were not able to reasonably participate in the hearing held June 14, 2022 because they did not receive the notice of hearing.
6. There's no dispute the Tenants failed to meet several conditions of the SOL-25156-21 as stated in SOL-27195-22-RV issued on June 21, 2022.
7. I considered the submission from the Tenant, CD testified she did not agree to the conditions of the consent order issued on SOL-25156-21 but verified she receive the Notice of Hearing and redirected it to Steven DeLuca to a manage as they had a separation agreement that he'd pay the arrears. CD authorized Steven DeLuca to act on her behalf and therefore that order is binding.
8. The Tenant may now regret the agreement he made to end the tenancy. However, that does not amount to a serious error in the order. Consent orders are generally difficult to review or amend. A party to the agreement cannot simply change their mind.
9. The Ontario Superior Court of Justice stated that "parties ought not to be easily able to revisit Board 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." [*Trust Construction Corporation v. McKie*, 2017 ONSC 4702 CanLII]
10. The Superior Court also stated that "The policy of the courts is to promote settlement. The discretion to refuse to enforce a settlement should be exercised rarely...agreements, and joint submissions, are serious and they should not be easy to simply overturn. To allow parties, after the fact, to raise claims they could have or allow second thoughts after an agreement is struck would cause unnecessary waste on our Tribunals and Courts. No one, even with an order, would feel safe to rely on what has been agreed to. This would not be a just result." [*Gent v. IMH Pool III LP*, 2017 ONSC 7230 CanLII]
11. The Tenants have three children and have lived in the unit together since 2014 until their separation in April 2022. The arrears of rent have increased rather than decrease since the consent order was issued on March 9, 2022 and it's unfair to grant further relief from eviction having considered all the circumstances:
12. The outcome of the order issued on June 21 2022 remains unchanged, however the stay is lifted on August 31, 2022 to give the Tenants additional time to vacate.

It is ordered that:

1. The request to review order SOL-27195-22 issued on June 21, 2022 is denied. The order is confirmed and remains unchanged.
2. The interim order issued on July 13, 2022 is cancelled. The stay of order SOL-27195-22 is lifted on August 31, 2022.

August 16, 2022
Date Issued


Sandra Macchione
Member, Landlord and Tenant Board

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