



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

Citation: C R DEVELOPERS INC. v Whalen, 2023 ONLTB 81146

Date: 2023-12-12

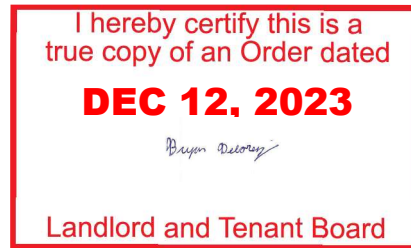
File Number: LTB-L-080984-22-RV

In the matter of: 1494 HWY 21
KINCARDINE ON N2Z2X5

Between: C R DEVELOPERS INC.

And

Jennifer Whalen
Jesse Whalen
Cole Whalen
Arianna Whalen



Landlord

Tenants

Review Order

C R DEVELOPERS INC. (the 'Landlord') applied for an order to terminate the tenancy and evict Jennifer Whalen, Jesse Whalen, Cole Whalen and Arianna Whalen (the 'Tenant') because the Tenants did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-080984-22 issued on October 24, 2023.

On November 6, 2023, the Tenants requested a review of the order.

This application was heard in by videoconference on December 7, 2023. The Tenant, Jennifer Whalen, attended the hearing. The Landlord was represented at the hearing by Anil Sharma.

Determinations:

1. The Tenants' request for review claims the Tenants were not reasonably able to participate in the hearing scheduled October 12, 2023. As explained below, I find the Tenants request for review to be an abuse of process.
2. The Tenants claim they did not receive notice for the hearing scheduled October 12, 2023. The difficulty for Tenants is they did not comply with interim order LTB-L-080984-22-IN.
3. This matter was previously before the Board on July 11, 2023. The hearing was adjourned due to an illness in Tenants' family. However, the previous Member issued an order requiring the Tenants pay their rent for June 2023 and July 2023 before July 31, 2023. They were also ordered to pay their rent in full and on time beginning August 1, 2023 until this application is fully resolved.



4. Order LTB-L-080984-22-IN is clear that if the Tenants did not comply the Board may refuse to accept the Tenants' evidence or submissions.
5. At the hearing, the Tenants acknowledged have not paid any of the rent as required by the interim order. Moreover, the Tenants have not paid any rent since application was filed. No reasonable explanation was provided for the Tenants' non-payment of rent.
6. Parties are expected to comply with interim orders issued by the Board. I find the Tenants' non-compliance with a Board order concerning. The Tenants were of the consequences of non-compliance. Yet they disregarded the Board order without a reasonable explanation.
7. I do not accept the Tenants' explanation that they thought there was an agreement with the Landlord resolving the matter. The arrears are quite substantial. It is highly unlikely that the Landlord would have come to an agreement to resolve this matter without putting in writing.
8. Even if the Tenants did not receive the notice of the October 12, 2023, hearing, I find their request to review order LTB-L-080984-22 to be an abuse of process.
9. In *Foy v. Foy (No. 2)*, 1979 CanLII 1631 (ON CA), 26 O.R.(2d) 220 (OCA), the Court of Appeal describes abuse of process as follows:

"The concept of abuse of process protects the public interest in the integrity and fairness of the judicial system. It does so by preventing the employment of judicial proceedings for purposes which the law regards as improper. These improper purposes include harassment and oppression of other parties by multifarious proceedings which are brought for purposes other than the assertion or defence of a litigant's legitimate rights. Such abuse of process interferes with the business of the Courts and tarnishes their image in the administration of justice"

10. The Tenants have the right to review order LTB-L-080984-22. However, in pursuing this right the Tenants must not abuse the Board's process. The Tenants were aware that they did not comply with the interim order LTB-L-080984-22-IN. They were aware the Board may not consider any of their submissions. Yet, they chose to request to review the order and attend the review hearing without a reasonable explanation for their non-compliance with the interim order.
11. The rent arrears have no accumulated over \$30,000.00. They have not made a payment since the application was filed. The Tenants have shown a complete disregard for their obligations to pay their rent. The Tenants seemingly have only filed their request to review to further delay the eviction process.
12. Noting the Tenants' non-compliance with order LTB-L-080984-22, I find the Tenants' request to review to be an abuse of the Board's process. Accordingly, their request to review order LTB-L-080984-22 is denied.

It is ordered that:

1. The request to review order LTB-L-080984-22 issued is denied. The order is confirmed and remains unchanged.



2. The interim order issued on November 6, 2023, is cancelled. The stay of order LTB-L-080984-22 is lifted immediately.

December 12, 2023
Date Issued

A handwritten signature in blue ink that reads "Bryan Delorenzi".

Bryan Delorenzi
Member, Landlord and Tenant Board

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