



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

Citation: Liang v Hou, 2023 ONLTB 16361

Date: 2023-01-23

File Number: LTB-L-026242-22-RV

In the matter of: Unit 2812, 50 ORDNANCE ST
TORONTO ON M6K0C9

Between: Hui Liang Landlord

And

Xiang Long Hou Tenants
Xue Feng Hou

Review Order

Hui Liang (the 'Landlord') applied for an order to terminate the tenancy and evict Xiang Long Hou and Xue Feng Hou (the 'Tenants') because:

- the Tenants, another occupant of the rental unit or a person the Tenants permitted in the residential complex has seriously impaired the safety of any person and the act or omission occurred in the residential complex.

The Landlord also claimed compensation for each day the Tenants remained in the unit after the termination date.

This application was resolved by order LTB-L-026242-22 issued on December 12, 2022.

On December 19, 2022, the Tenants requested a review of the order and that the order be stayed until the request to review the order is resolved.

On December 20, 2022, interim order LTB-L-026242-22-RV-IN was issued, staying the order issued on December 12, 2022.

This application was heard by videoconference on January 11, 2023. The Landlord, the Landlord's translator, A. Zhang, the Landlord's legal representative, C. Hu, and the Tenants attended the hearing.

Determinations:

- The hearing of this application was initially scheduled for September 8, 2022. The matter was adjourned at the Tenants' request. Interim order LTB-L-026242-22-IN was issued on September 12, 2022. The hearing was adjourned to November 21, 2022. The Tenants did



not attend the hearing and therefore, the matter proceeded with only the Landlord's evidence.

2. The Tenants submit that they did not attend the hearing because they did not receive any notice. The Board's records show that the Tenants were emailed the Notice of Hearing (the 'Notice') on October 26, 2022 at 12:40 p.m. The Tenant, Xue Feng Hou (XFH), verified his email address, which matched the email address that the Notice was sent to. The Board's records do not indicate that the Notice was returned as undelivered. XFH stated that he checks his email once a week at a minimum. Further, XFH stated he checked his junk folder and did not see the Notice, but the junk folder automatically deletes emails after one month. The Tenants also stated that they received the interim order and the final order via email. The Board's records also show that XFH consented to service via email through the Tribunals Ontario Portal.
3. On a balance of probabilities, I find that the Tenants did receive the Notice, but the Tenants did not act diligently with respect to monitoring their email despite having consented to service via email. The email address verified at the hearing matched the email address where the Notice was sent on October 26, 2022. In addition, the Tenants could not explain why their email account accepted the orders and not the Notice. As such, I find that the Tenants were reasonably able to participate in the previous hearing but failed to do so through want of diligence.
4. As found in *Q Res IV Operating GP Inc. v. Berezovs'ka*, 2017 ONSC 5541 (CanLII), a finding of lack of diligence by a party is an appropriate ground for declining to grant a review. As such, the Tenants' request for review is denied.
5. I took submissions on the lifting of the stay if I denied the request to review. The Tenants requested 3-4 months as XFH works a lot and Xiang Long Hou is still in school. In consideration of these circumstances, I find it appropriate to postpone the lifting of the stay on February 28, 2023. While I understand the Tenants' schedule is full, I find it would be unfair to impose the requested length of time on the Landlord. The postponed date will provide the Tenants some time to organize their move.

It is ordered that:

1. The request to review order LTB-L-026242-22 issued on December 12, 2022 is denied. The order is confirmed and remains unchanged.
2. The interim order issued on December 20, 2022 is cancelled. The stay of order LTB-L-026242-22 is lifted on February 28, 2023.

January 23, 2023

Date Issued

Camille Tancioco

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.