



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

File Number: TNL-35025-21-RV

In the matter of: 30 VIEW NORTH COURT
WOORBRIDGE ON L4L8S4

Between: Weiting Bollu (Xu)

and

John Spezzano
Lucia (Lucy) Spezzano

I hereby certify this is a
true copy of an Order dated
03/04/2022
LL
Landlord and Tenant Board

Landlord

Tenants

Review Order

Weiting Bollu (Xu) (the 'Landlord') applied for an order to terminate the tenancy and evict John Spezzano and Lucia (Lucy) Spezzano (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was resolved by order TNL-35025-21 issued on January 31, 2022.

On March 4, the Tenants requested a review of the order.

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

Determinations:

1. I have listened to the January 24, 2022 hearing recording and have reviewed the Board's 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. Although section 10 of the *Statutory Powers Procedure Act* states that a party to an application has the right to legal representative, the right is not absolute. A party to an application is also required to take reasonable steps to be prepared for the hearing on the hearing date: *Q Res IV Operating Gp Inc. v. Berezovs'ka*, [2017] O.J. No. 4863 (Div. Ct.) ('*Berezovs'ka*'). In this present case, the Tenants submit that they were not given an adequate opportunity to speak with Tenant Duty Counsel immediately before the hearing. The Board's notice of hearing, however, instructs tenants to seek legal advice and representation prior to the hearing date. To assist tenants, the Board's notice of hearing provides tenants with contact information for Legal Aid Ontario.
3. The Tenants' omission to seek legal advice before the hearing date represents a failure to take reasonable steps to prepare for the January 24, 2022 hearing. Following the Divisional Court's reasons in *Berezovs'ka*, I find that the Tenants did not demonstrate that a serious error occurred in the proceedings on the basis that they were unable to speak with Tenant Duty Counsel on the hearing day.

4. The Board's record shows that the Board did not receive evidence or any other material from the Tenants before the hearing date and in accordance with Rule 19 of the Board's Rules of Practice. The presiding Adjudicator nevertheless considered both the Tenants' and Landlord's testimony of an alleged decrease in rent. In the absence of reliable evidence from the Tenants, the presiding Adjudicator was entitled to determine that the Landlord did not agree to lower the monthly rent for a period of time during the COVID-19 pandemic. The presiding Adjudicator was in the best position to admit relevant evidence and to make findings based on that evidence, or in the Tenants' case the lack of reliable evidence. The presiding Adjudicator's findings are therefore entitled to deference.
5. Although the Tenants submit that the presiding Adjudicator rushed through the proceeding, I find from the hearing recording that the parties were given an adequate opportunity to know the issues to be determined and to be heard on the matter. Despite the presiding Adjudicator's repeated instructions to carry on with her evidence, the Tenant Lucia (Lucy) Spezzano continued to focus on the unproven alleged agreement to reduce the monthly rent. Doing so consumed time remaining in the hearing block.
6. Contrary to the submission in the review request, the hearing recording shows that the Tenants gave evidence of their personal circumstances, including the death of a family member and other family circumstances and hardship. Although another Board Adjudicator may have exercised their discretion under section 83 of the *Residential Tenancies Act, 2006* differently, the January 31, 2022 order shows that the Adjudicator considered both the Tenants' circumstances and the prejudice to the Landlord from the significant rent arrears. The order therefore adequately explains how and why the presiding Adjudicator arrived at his conclusion. The presiding Adjudicator's exercise of discretion is accordingly entitled to deference.
7. Since the Tenants have not demonstrated that a serious error exists in the January 31, 2022 order, or that a serious error occurred at the January 24, 2022 hearing, the request to review the order must be denied.

It is ordered that:

1. The request to review order TNL-35025-21, issued on January 31, 2022, is denied. The order is confirmed and remains unchanged.



Harry Cho
Member, Landlord and Tenant Board

March 4, 2022
Date Issued

Toronto North-RO
47 Sheppard Avenue East, Suite 700, 7th Floor
Toronto ON M2N5X5

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