



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

File Number: HOT-11424-21-RV

In the matter of: 31 POSTMASTER DRIVE
KITCHENER ON N2R0J2

Between: Koo Cha-Arnold
Jason Arnold

I hereby certify this is a
true copy of an Order dated
Aug 19 2022
A. Hurd
Landlord and Tenant Board

Tenants

and

Bikram Singh Gusain
Sarita Gusain

Landlords

Review Order

Koo Cha-Arnold and Jason Arnold (the 'Tenants') applied for an order determining that Sarita Gusain and Bikram Singh Gusain (the 'Landlords'), gave a notice of termination in bad faith.

This application was resolved by order HOT-11424-21 issued on May 27, 2022.

On May 30, 2022 the Landlords requested a review of the order.

On June 3, 2022 interim order HOT-11424-21-RV-IN was issued, staying the order issued on May 27, 2022.

The request was heard by videoconference on July 21, 2022.

The Tenants and, the Landlord, Bikram Singh Gusain and the Landlords' Representative, Ajmer Singh Mandur attended the hearing.

Determinations:

1. The Landlord stated he was confused when he received the Notice of Hearing on or around March 10, 2022 for a hearing scheduled on April 11, 2022 and another Notice of hearing on March 21, 2022 for application HOT-11731-21 for a hearing scheduled on April 25, 2022. He submits that he did not have a reasonable opportunity to participate on April 11, 2022 hearing because of the confusion caused by the two notices.
2. 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.

3. This is not a situation where the Landlord did not receive the Notice. The Landlord received the Notice of Hearing and although he received two notices from the Board, they identified two different hearing dates and two different files numbers. The Landlord did not contact the Board to obtain clarification. There was no reasonable explanation offered to explain his negligence.
4. On April 12, 2022, one day after the hearing was held on April 11, 2022, the Board's record shows the Landlord sent evidence to the Board as to what he describes as evidence of selling the rental unit. This corroborates that he had knowledge of the hearing held on April 11, 2022 because he identifies the correct file number and the hearing date of April 11, 2022 on the subject line of his email.
5. The Member also did a thorough enquiry to determine procedural fairness, and it's clear from the language in the order issued on May 27, 2022 that the Member "had no doubt the Landlords were aware of the hearing and choose not to attend".
6. A review is not opportunity to obtain a second hearing and present a defence which ought to have been presented at first instance. The Court in *Q Res IV Operating CP Inc. v. Berezovs'ka* 2017 ONSC 5541 states, "[I]f parties are not diligent in dealing with legal proceedings then they cannot demand that a Tribunal waste its resources by rehearing matters a second time. To allow this would undermine the ability of the administration of justice to deliver timely cost-effective and final orders."
7. The request to review the order issued on May 27, 2022 is denied. The Landlord was aware of the hearing and had adequate opportunity to participate in the proceedings.

It is ordered that:

1. The request to review order HOT-11424-21 issued on May 27, 2022 is denied. The order is confirmed and remains unchanged.
2. The interim order issued on June 3, 2022 is cancelled. The stay of order HOT-11424-21 is lifted

August 19, 2022
Date Issued


Sandra Macchione
Member, Landlord and Tenant Board

Head Office
777 Bay Street, 12th Floor
Toronto Ontario M5G2E5

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