



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

Citation: Franklyn v Parker, 2023 ONLTB 15118

Date: 2023-01-11

File Number: LTB-T-074828-22-RV

In the matter of: 359 Wigston
North Bay Ontario P1A1X2

Between: Alexandra Franklyn Tenants
Blake Swan

And

Caroline Parker Landlord

Review Order

Alexandra Franklyn and Blake Swan (the 'Tenants') applied for an order determining that Caroline Parker (the 'Landlord'):

- entered the rental unit illegally;
- substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenant or by a member of the Tenant's household.

This application was resolved by order LTB-T-074828-22 issued on December 9, 2022.

On January 4, 2023, the Landlord requested a review of the order and that the order be stayed until the request to review the order is resolved.

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

Determinations:

1. 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. In the December 9, 2022 order, the hearing member determines at paragraph 25 and 26 that:
 25. The Landlord was supposed to make space in the bathrooms for Tenant's toiletries, space in the closets and dressers for the Tenant's clothing, space in the cupboards for Tenant's groceries, and clear out the fridge and freezer with the exception on one row in the fridge door for the Landlord's condiments.
 26. However, the photograph evidence shows that the Landlord's belongings left behind were more than what the parties agreed, and the Tenants had to remove some of the Landlord's belonging from the closets, dressers, and cupboards. This substantially interfered with the Tenants' reasonable



enjoyment of the rental unit because the Tenants had to remove all the Landlord's belongings and place them in the unit's second bedroom.

3. The Landlord submits that the decision was made solely on the false statements made by the Tenants and the photographic evidence falsely depicting space available for the Tenants. The Landlord says that they stated that the photographs depicted space used by the Landlord and not space that was supposed to be made available to the Tenants. The Landlord states that the hearing member erroneously relied on the photographs despite the Landlord repeatedly denying that the photographs accurately depict the space made available for the Tenant's use.
4. The landlord's opportunity to contest the evidence was at the hearing. Based on my review of the hearing recording, at no time during the hearing did the Landlord object to the photographs as inaccurately depicting the space made available for the Tenants' use. Therefore, the hearing member was entitled to rely on the photographs to make his determination. The photographs reasonably support the hearing member's findings.
5. The request to review seeks to revisit the hearing member's decision. While the Landlord clearly disagrees with the decision, the purpose of the review process is not to provide parties with an opportunity of relitigating the issues. I would not interfere with the assessment of the evidence by the hearing member, who was in the best position to assess the credibility of the parties and had the opportunity of hearing the evidence in its totality.

It is ordered that:

1. The request to review order LTB-T-074828-22, issued on December 9, 2022, is denied.
2. The order is confirmed and remains unchanged.

January 11, 2023
Date Issued

Khalid Akram
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.