



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

Citation: Thompson v Kporwodu, 2023 ONLTB 75239

Date: 2023-11-21

File Number: LTB-L-044523-23-SA-RV

In the matter of: 1226 FOXHILL CRT
WINDSOR ON N8S4J3

Between: Kenneth Thompson
Rebecca Thompson

And

Julius Kporwodu

I hereby certify this is a true copy of an Order dated
NOV 21, 2023
Landlord and Tenant Board

Landlords

Tenant

Review Order

Kenneth Thompson and Rebecca Thompson (the 'Landlords') applied for an order to terminate the tenancy and evict Julius Kporwodu (the 'Tenant') and for an order to have the Tenant pay the rent they owe because the Tenant failed to meet a condition specified in the order issued by the Board on June 2, 2023 with respect to application LTB-L-039546-23.

This application was resolved without a hearing by order LTB-L-044523-23 issued on June 23, 2023. The Tenant filed a motion to set aside the ex-parte order.

The motion was heard by videoconference on August 14, 2023 and resolved by order LTB-L-044523-23-SA issued on August 22, 2023. The Tenant did not attend the hearing of the set aside motion and the motion was dismissed as abandoned.

On August 28, 2023 the Tenant requested a review of the August 22, 2023 order and that the order be stayed until the request to review the order is resolved.

On August 28, 2023 interim order LTB-L-044523-23-SA-RV-IN was issued, staying the order issued on August 22, 2023 and directing the matter to a review hearing.

This request was heard by videoconference on October 19, 2023. The Landlords, the Tenant and the Landlord's legal representative Suzanne Diamond attended the hearing.

Determinations:

Review Request:

1. The Tenant's request for review alleges that the Tenant was not reasonably able to participate in the hearing of the set aside motion on August 14, 2023.

2. On the basis of the submissions made in the request, I am not satisfied that the Tenant was not reasonably able to participate in the proceeding.
3. The Tenant acknowledges receiving notice of hearing for his set aside motion and the Board's records confirm that notice of the August 14, 2023 hearing was served to the parties on July 4, 2023.
4. The hearing of the Tenant's motion was scheduled to start at 1:00pm. The Tenant testified that the day prior, he was working night shift in Toronto and that at approximately 2:00am on the hearing date he received a call from his wife advising that she was not feeling well and was considering going to the hospital. At approximately 9:00am, the Tenant left Toronto to drive back to Windsor to bring his wife to the local hospital.
5. The Tenant arrived at the hospital after the hearing was scheduled to commence. The Tenant also agreed that at no point prior to 1:00pm did he contact the Board or the Landlord's representative to inquire about rescheduling the matter or to have the matter held down until later in the hearing block. The Tenant also did not send a representative or authorized agent to the hearing to request an adjournment, nor did the Tenant call into the hearing himself to request an adjournment of the matter.
6. The Divisional Court has repeatedly affirmed that parties to an application are required to follow the Board's process to reschedule or adjourn a hearing: *Lacroix v. Central-McKinlay International Ltd.*, 2022 ONSC 2807 (Div. Ct.) (CanLII); *Wang v. Oloo*, 2023 ONSC 1028 (Div. Ct.) (CanLII).
7. Further as stated by the Divisional Court in *Q Res IV Operating Gp Inc. v. Berezovs'ka*, 2017 ONSC 5541 (Div. Ct.) (CanLII), "[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".
8. In this case, the Tenant acknowledged receiving notice of hearing and was aware of the start time and how to access the hearing. The Tenant also knew approximately four hours prior to the start of the hearing that he would likely not be able to attend and/or fully participate in the proceedings, but yet made no efforts to contact the Board or the Landlord's representative to inquire about rescheduling and/or adjourning the matter. The Tenant also did not send a friend and/or authorized agent to call into the videoconference to speak to an adjournment request or to request that the matter be held down until later in the hearing block.
9. The hearing on August 14, 2023 was to consider the Tenant's motion to set aside an ex-parte eviction order. Therefore, the Tenant knew that his tenancy was at risk of being terminated and that his non-attendance would result in his motion being denied. Despite this, the Tenant made no efforts to participate in the proceeding or to have the matter adjourned. Board hearings have for the most part been conducted by way of telephone and/or videoconference since 2020. The Tenant provided no reasonable explanation as to why he could not log into the videoconference by telephone at the start of the hearing block to speak to an adjournment request or as to why he could not contact the Board or the Landlord's representative prior to the hearing.

10. As I am not satisfied that the Tenant was not reasonably able to participate in the proceedings, the request for review must be denied.

Lifting the stay:

11. At the hearing I invited submissions from the parties with respect to any delay in lifting the stay of the August 22, 2023 order. For the reasons below, the stay of the order will be lifted November 30, 2023.
12. The proceedings between the parties first came before the Board on or about June 2, 2023 with respect to order LTB-L-039546-23. This order was issued on consent of the parties and was a repayment plan order for arrears of rent. The order confirms that the Tenant owed to the Landlord \$11,556.00 in arrears of rent and costs to May 31, 2023.
13. As of the review hearing, the Tenant owed to the Landlord \$21,224.00 on arrears of rent. the Tenant has made no payments to the Landlord since July 16, 2023 and Board's records further confirm that the original repayment plan order was breached shortly after it's issuance.
14. I find that any further delay beyond November 30, 2023 would only prejudice the Landlord and result in additional arrears owing. As such, the stay of the order will be lifted November 30, 2023.

It is ordered that:

1. The request to review order LTB-L-044523-23-SA issued on August 22, 2023 is denied. The order is confirmed and remains unchanged.
2. The interim order issued on August 28, 2023 is cancelled. The stay of order LTB-L-044523-23-SA is lifted on November 30, 2023.

November 21, 2023
Date Issued



Fabio Quattrociochi
Member, Landlord and Tenant Board

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