



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

File Number: CEL-01685-21-RV

In the matter of: 128 SOUTHWINDS CRESCENT
MIDLAND ON L4R0A2

Between: James Christie Landlords
Caroline Christie

and

Tonya Stevens Tenant

Review Order

On June 3, 2021 James Christie and Caroline Christie (the 'Landlords') applied for an order to terminate the tenancy and evict Tonya Stevens (the 'Tenant') because the Landlord has entered into an agreement of purchase and sale of the rental unit and the purchaser requires possession of the rental unit for the purpose of residential occupation.

A hearing was held on September 23, 2021 and only the Landlords attended the hearing.

The application was resolved by order CEL-01685-21 being issued on October 8, 2021.

On October 13, 2021 the Tenant filed a request to review the order alleging that she was not reasonably able to participate in the proceedings due to personal circumstances.

The Board directed the review to a hearing for a determination on whether the Tenant was reasonably able to participate in the hearing that was previously held on September 23, 2021.

The review hearing (RV) was held via video/teleconference on December 16, 2021.

The Landlords and the Tenant attended the RV hearing. The Tenant was provided with the opportunity to speak with a Duty Counsel Representative prior to the hearing.

The Purchaser Andrew Auchterlonie attended the hearing as a witness for the Landlords.

Determinations:

1. On the basis of the submissions made in the request and the testimony given at the RV hearing, I was not satisfied that the Tenant was not reasonably able to participate in those proceedings for the following reasons.

2. In the request the Tenant alleged that due to personal family circumstances she overslept on the day of the hearing and was not present in the hearing room when the matter was called.
3. In the hearing notice issued by the Board instructions are very clear - If you cannot participate in the hearing, you should give someone written permission to represent you and to participate on your behalf and to advise the Board in advance. If you are the tenant and you do not attend the hearing or send a representative, the LTB may hold the hearing without you and make a decision based on only the Landlord's evidence.
4. Absent exceptional circumstances and/or a serious error, a review is not an opportunity to reargue a case in hope of a more favourable outcome. Nor is it an opportunity to present evidence and submissions that could and should have been presented at the original hearing.
5. The Tenants' request to review is denied.
6. At the hearing the Tenant stated she has found alternative accommodation and was seeking additional time up to January 11, 2021 to move out of the unit.
7. The purchaser provided testimony at the hearing that he continues to be living out of boxes and requires possession of the rental unit.

Section 83 Relief.

8. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would be unfair to grant further relief from eviction pursuant to subsection 83(1) of the Act. However, I find it not unfair to extend the lifting of the stay of the order until January 3, 2022.

It is ordered that:

1. The request to review order CEL-01685-21 being issued on October 8, 2021 is denied. The order is confirmed and remains unchanged.
2. The interim order issued on October 15, 2021 is cancelled. The stay of the order CEL-01685-21 is lifted January 3, 2021.



Randy Aulbrook
Member, Landlord and Tenant Board

December 24, 2021

Date Issued

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3 Robert Speck Pkwy, 5th Floor
Mississauga ON L4Z2G5

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