



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

**File Number:** TSL-20629-21-RV

**In the matter of:** 2ND FLR BACK ROOM, 82 GOUGH AVENUE  
TORONTO ON M4K3N8

**Between:** Amelia Touras Landlord

**and**

Mario Xirogiannis Tenants  
Rick McNally

2021 CanLII 113687 (ON LTB)

**Review Order**

Amelia Touras (the 'Landlord') applied for an order to terminate the tenancy and evict Rick McNally and Mario Xirogiannis (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was resolved by order TSL-20629-21 issued on July 21, 2021. On July 21, 2021, the Landlord requested a review of the order.

A preliminary review of the review request was completed 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. The Landlord seeks a review of order TSL-20629-21 on the basis that the Hearing Member erred in finding that the N4 notice of termination was defective and invalid.
3. The Landlord submits that subsection 59(2) of the *Residential Tenancies Act, 2006* (the 'Act') only requires that the notice of termination set out the amount of rent due and specify that the tenant may avoid termination of the tenancy by paying the rent due as set out in the notice. The Landlord argues that subsection 59(2) does not require that the notice of termination set out the period for which rent arrears are claimed.

4. Pursuant to subsection 43 of the Act, a notice of termination must be in a form approved by the Board and must set out the reasons and details for the termination. The Board's N4 form requires that the reasons and details include a statement of the rent charged and paid in each month during which arrears arose.
5. According to the Ontario Divisional Court's decisions in both *Kuzyk v. S.K. Properties* (November 22, 2001)[1] and *Ball v. Metro Capital Property and Lockhurst* (December 19, 2002)[2], if a notice of termination issued by a landlord is confusing to the degree that a reasonable person could not understand the precise actions or omissions that caused the landlord to pursue eviction, a Member may find it defective.
6. The N4 notice that formed the basis of the Landlord's application indicated that for the rent period from September 1, 2020 to January 1, 2021 the rent charged and owing is \$15,300.00. Based on this information, the monthly rent would be approximately \$3,825.00. As it was undisputed that the monthly rent is \$900.00, the N4 is clearly incorrect.
7. The Hearing Member found that the N4 notice was defective because the amount of rent claimed charged for the period from September 1, 2020 to January 1, 2021 was inaccurate based on a monthly rent of \$900.00. Having reviewed the N4 notice, I find that the Hearing Member's finding was reasonable.
8. While the issue on the N4 notice may have been the Landlord's typographical error, the fact remains that it does not provide accurate details as to the amount of rent charged and paid during the rent period claimed. This is a statutory requirement of subsection 43 of the Act.
9. On a request to review, the burden of proof is on the requesting party to show that there may either be a serious error in the order or in the process leading up to it. On a balance of probabilities, I do not find that the Landlord has satisfied that burden in explaining how the Hearing Member erred with the way he considered evidence and the conclusions he reached. Rather it seems that the Landlord is attempting to re-argue their own position. However, a review is not an opportunity to re-argue the issues in the hopes of having a different outcome. The Hearing Member is in the best position to assess credibility and facts.
10. The Hearing Member expressly turned his mind to the issues. The Hearing Member has broad discretion in issuing his order. This discretion shall not be interfered with lightly as the Hearing Member was in the best position to assess the credibility of the parties and give the appropriate weight to the evidence before him. Accordingly, the Landlord's request to review is denied.

**It is ordered that:**

- 1. The request to review order TSL-20629-21 issued on July 21, 2021 is denied. The order is confirmed and remains unchanged.

**July 29, 2021**  
**Date Issued**



**Dawn Sullivan**  
 Member, Landlord and Tenant Board

Toronto South-RO  
 15 Grosvenor Street, 1st Floor  
 Toronto ON M7A 2G6

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

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