



Order under Section 69  
**Residential Tenancies Act, 2006**

**File Number:** TEL-18483-21-RV

**In the matter of:** B UPPER, 1466 KINGSTON ROAD  
SCARBOROUGH ON M1N1R6

**Between:** Kien Hoang Landlords  
Figara Gate Ltd

**and**

Gary Thompson Tenant

**Review Order**

On August 2, 2021 Kien Hoang (the 'Landlord') applied for an order to terminate the tenancy and evict Gary Thompson (the 'Tenant') because the Tenant has been persistently late in paying the Tenant's rent.

A hearing was held on September 7, 2021 and only the Landlord's Agent and the Landlord's Legal Representative attended the hearing.

The application was resolved by order TEL-18483-21 being issued on September 22, 2021.

On October 15, 2021 the Tenant filed a request to review the order alleging that he is 'legally blind' and with no internet capabilities that he was therefore not reasonably able to participate in the proceedings due to his disability ability.

On October 18, 2021 the Board directed the review to a hearing for a determination on whether the Landlord was reasonably able to participate in the hearing that was previously held on September 7, 2021.

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

The Landlord, the Landlord's Legal Representative Charles Petrathuk, the Tenant and Tenant's Legal Representative Sheeba Sibel attended to assist the Tenant at the RV hearing.

**Background and Determinations:**

1. On the basis of the submissions made and the testimonies given at the hearing, I was satisfied that Tenant was not able to reasonably participate in the proceeding on September 7, 2021, however I was not satisfied that there was an error in the order issued.
2. I granted the review hearing request.

3. It was disclosed at the hearing after the filing of the application the residential complex was sold effective October 5, 2021 to Figaro Gate Ltd and the application shall be amended to include the new owner Landlord as a respondent to the application.
4. Pursuant to paragraph 58(1)(a) of the Act which says:

58 (1) A landlord may give a tenant notice of termination of their tenancy on any of the following grounds if:

  1. The tenant has persistently failed to pay rent on the date it becomes due and payable.
5. The Landlord had submitted a copy of the rent payment ledger listing the date payments were made during the last 12-month period. In most instances, the payments made were partial payments.
6. At the hearing, the Tenant acknowledged that rent was not always paid in full and on time due to his transition to CPP/OAP pension benefits.
7. Based on the uncontested testimony of the Landlord that the Tenant had a history of paying the monthly rent late, I find the Tenant has persistently failed to pay the rent to the former Landlord on the date it was due.
8. Despite that fact, I also find that circumstances have changed. The Tenant's Legal Representative asserts that the Tenant is now financial able to pay his full rent on time and that the new owner of the complex would not be prejudiced with a conditional order requiring the Tenant to pay rent in full and on time.
9. The Landlord's Legal Representative submitted an update that the total amount of outstanding rent owing by the Tenant to the "Landlords" for the period ending December 31, 2021 is \$3,400.00.
10. The Tenant pledged to immediately pay the amount outstanding to the Landlord's Legal Representative for distribution between the former and new Landlord.
11. After having considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), I find that it would not be unfair to grant relief from eviction subject to the condition(s) set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act

**It is ordered that:**

12. The review hearing is granted.
13. Order TEL-18483-21 being issued on September 22, 2021 is cancelled and replaced with this order.

- 14. The Tenant shall pay to the new Landlord the current lawful monthly rent of **\$750.00** in full and on time, on or before the (1<sup>st</sup>) business day of each month for the next 12-month period commencing January 1, 2022 through to and including December 1, 2022.
- 15. If the Tenant fails to make any one of the payments in paragraph 1 above, in full and on time, the Landlord may apply under section 78 of the Act, without notice to the Tenant for an order terminating the tenancy and evicting the Tenant. The Landlord must make this application no later than 30 days after the Tenants' failure to make a payment.
- 16. The Tenant shall also pay to the Landlord \$186.00\* for the cost of filing the application.
- 17. If the Tenant does not pay the Landlord the full amount owing on or before January 15, 2022, the Tenant will start to owe interest. This will be simple interest calculated from January 16, 2022 at 2.00% annually on the balance outstanding.

2021 CanLII 149783 (ON LTB)



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Randy Aulbrook  
Member, Landlord and Tenant Board

**December 21, 2021**  
**Date Issued**

Toronto East-RO  
2275 Midland Avenue, Unit 2  
Toronto ON M1P3E7

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