



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

**File Number:** SOL-17632-20-RV

**In the matter of:** 1107, 30 SANFORD AVENUE S  
HAMILTON ON L8M3M3

**Between:** Cityhousing Hamilton Corporation Landlord  
**and**  
Nenad Zivojinovich Tenant

**Review Order**

Cityhousing Hamilton Corporation (the 'Landlord') applied for an order to terminate the tenancy and evict Nenad Zivojinovich (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order SOL-17632-20 issued on May 21, 2021.

On June 22, 2021, the Tenant requested a review of the order and that the order be stayed until the request to review the order is resolved.

On July 6, 2021 interim order SOL-17632-20 -IN was issued, staying the order issued on May 21, 2021.

The Tenant alleged that he was not reasonably able to participate in the proceedings and that the order contained a serious error.

The request was heard by videoconference on September 23, 2021.

The Landlord and the Landlord's Legal Representative K. MacIntyre and the Tenant attended the hearing. The Tenant spoke with Duty Counsel prior to the hearing.

**Determinations:**

The Review Request

1. The Tenant alleges that he was not reasonably able to participate in the proceedings as there was a flood in his unit, and after the flood he could not locate his Notice of Hearing and was unable to determine how to connect into the hearing.
2. The Tenant also stated that order SOL-17632-20, issued on May 21, 2020, contains a serious error. The Tenant did not describe what constituted a serious error and presented no evidence in the hearing regarding an error in the order.

*Not Reasonably Able to Participate in the Proceedings*

3. The Tenant testified that he received the Notice of Hearing for the hearing on May 4, 2021. He testified that he spoke to two of the Landlord's staff regarding the hearing date 2 to 3 days prior to the hearing and possibly a week before as well. He advised he was aware of the date of the hearing at all times.
4. The Tenant testified that there were 2 or 3 floods in his rental unit. He testified that on the day of the hearing he could not find the Notice of Hearing to call into the hearing. He believes that the papers may have been thrown out due to the flood. He testified that he called the Landlord's staff and left a message on her voicemail asking her to call him with the call-in information for the hearing.
5. The Tenant testified that he did not attempt to call the Board to obtain the hearing contact information on the day of the hearing.
6. The Landlord's employee Melissa Sheilds ('MS') attended the hearing and gave evidence on behalf of the Landlord. MS testified that she spoke to the Tenant a few days prior to the hearing to remind him of the hearing. She testified that on May 4, 2021, she did not receive a voice mail message from the Tenant. In preparation for the hearing today, she testified that she checked all voice mail messages, voice mail logs, and with the staff of the Landlord and it was confirmed that she did not receive a message from the Tenant on May 4, 2021.
7. MS testified that the Landlord was not advised of any floods in the Tenant's unit on or prior to the hearing on May 4, 2021 and that in the course of her duties she would be made aware of any flood or maintenance and repair requests of the tenants and this Tenant.
8. On cross-examination, the Tenant testified that he could not recall when the floods in his unit had occurred, any time range for floods, or whether they were close to the hearing date. He further testified that he did not notify the Landlord of the floods as he believed the Superintendent was aware of the flood(s) when it or they occurred.

*Analysis*

9. The Board will only exercise its discretion to grant a review when it is satisfied the order contains a serious error, a serious error occurred in the proceeding, or the requestor was not reasonably able to participate in the proceeding.
10. In the present case the Tenant testified that there may or may not have been a flood in his unit on or around May 4, 2021; he was uncertain of the dates. He testified that he was aware of the hearing date and time, but did not contact the Board to attempt to get information on how to attend the hearing. He confirmed that the Landlord had also reminded him of the hearing date.
11. I prefer the evidence of MS as it was consistent and unwavering and the Tenant's evidence was uncertain and changed throughout the hearing. I accept the evidence of

MS that she did not receive a voice mail message from the Tenant on the day of the hearing and that there was no flood in the Tenant's unit immediately prior to the hearing date that the Landlord is aware of.

12. On the basis of the evidence before the Board, I find that the Tenant was aware of the hearing date, was reminded of the hearing date, and did not take reasonable steps to ensure that he could attend the hearing on May 4, 2021. In the event that the Tenant did lose the Notice of Hearing, the Tenant should have been diligent in obtaining the contact information in order to attend.
13. As stated by the Court in *Q Res IV Operating CP Inc. v. Berezovs'ka* 2017 ONSC 5541 (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".
14. I find that the Tenant was reasonably able to participate in the hearing, had he chosen to do so.
15. On the basis of the evidence before me, I am not satisfied that there is a serious error in the order or that a serious error occurred in the proceedings. As a result, the Tenant's review request is denied.

*Lifting of the Stay*

16. The Landlord requested that the stay be lifted. It was uncontested that the unit is subject to a rent subsidy and the Tenant is a senior. The Tenant requested 2 to 3 weeks to vacate the rental unit. Having considered the circumstances of all parties, I find that this is a reasonable request. Although not consenting, the Landlord was not opposed to the Tenant having a month to vacate the rental unit. The Tenant was advised in the hearing that the review request was denied and the stay would be lifted and it would be prudent to begin his search for alternative accommodations.

**It is ordered that:**

1. The request to review order SOL-17632-20 issued on May 21, 2021 is denied. The order is confirmed and remains unchanged.
2. The interim order issued on July 6, 2021 is cancelled. The stay of order SOL-17632-20 is lifted October 30, 2021.

**October 5, 2021**  
**Date Issued**



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Nicola Mulima  
Member, Landlord and Tenant Board

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