



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

**Citation:** BCIMC Realty Corporation C/O Quadreal Residential Properties G.P. Inc v Samson,  
2024 ONLTB 37956

**Date:** 2024-05-17

**File Number:** LTB-L-076215-22-SA-RV

**In the matter of:** 2011, 44 Jackes Avenue  
Toronto Ontario M4T1E5

**Between:** BCIMC Realty Corporation C/O Quadreal Residential Properties G.P. Inc Landlord

**And**

Paul Samson Tenant

### Review Order

BCIMC Realty Corporation C/O Quadreal Residential Properties G.P. Inc (the 'Landlord') applied for an order to terminate the tenancy and evict Paul Samson (the 'Tenant') because the Tenant failed to meet a condition specified in the order issued by the Board on November 4, 2016 with respect to application TSL-75697-16.

This application was resolved by ex parte order LTB-L-076215-22 (formerly TSL-23225-21), issued on April 11, 2021.

The Tenant filed a motion to set aside the April 11, 2021 ex parte order. The Tenant's motion was heard on April 9, 2024. The Tenant did not attend the hearing. The Tenant's motion was resolved by Board motion order LTB-L-076215-22-SA, issued on April 17, 2024. The motion order denied the Tenant's motion to set aside the April 11, 2021 ex parte order.

On May 15, 2024, the Tenant requested a review of the motion 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 the Tenant was not reasonably able to participate in the proceeding, or that an error occurred in the proceeding.
2. The Tenant and Tenant's legal representative received the Board's notice of the April 9, 2024 motion hearing. Only the Tenant's legal representative, however, attended the hearing. At the hearing, the Tenant's legal representative requested an adjournment to allow the Tenant to attend and participate in the proceeding on another day. The Landlord opposed the Tenant's legal representative's request to adjourn the hearing.
3. The April 17, 2024 motion order shows that the Board Vice Chair considered appropriate factors when the Vice Chair denied the Tenant's legal representative's request to adjourn the hearing. The order, for example, summarizes the parties' submissions and notes that the Tenant did not introduce sufficient material for the Board to find that the Tenant was not reasonably able to participate in the proceeding.
4. The Board Vice Chair correctly cites and follows the Divisional Court's decision in *Wang v. Oloo*, 2023 ONSC 1028 (Div. Ct.) (CanLII). The principle from *Wang* – that a party must give sufficient information for the Board to determine an adjournment request – applies to the present case. Here, as noted in paragraph 11 of the April 17, 2024 motion order, the Tenant did not introduce evidence to satisfy the Board Vice Chair that the Tenant was not reasonably able to participate in the hearing for any reason.
5. In addition to considering the parties' submissions, the April 17, 2024 motion order shows that the Board Vice Chair also considered section 183 of the *Residential Tenancies Act, 2006* when determining the Tenant's legal representative's adjournment request. The Vice Chair affirmed that the Board must “adopt the most expeditious method of determining the questions arising in a proceeding that affords all persons directly affected by the proceeding an adequate opportunity to know the issues and to be heard on the matter.”
6. Although the Tenant disagrees with the decision to deny the April 9, 2024 adjournment request, it is evident that the Board Vice Chair considered the parties' submissions and took note of the Tenant's omission to introduce evidence to determine that the Tenant was not reasonably able to participate in the proceeding. The Vice Chair's decision is therefore rational and not arbitrary or capricious. Without reliable evidence for the Board to find that the Tenant was not reasonably able to participate in the proceeding, the Vice Chair's decision to deny the adjournment request falls within a reasonable range of outcomes. The decision is also consistent with the duty to adopt an expeditious procedure to resolve the application. While another Board adjudicator may have exercised their discretion differently, I find that the Vice Chair did not err by denying the Tenant's legal representative's request to adjourn the April 9, 2024 proceeding.

7. The Tenant has accordingly not satisfied me that they were not reasonably able to participate in the proceeding, or that a serious error occurred in the proceeding. The request to review the April 17, 2024 motion order must in the circumstances be denied.

**It is ordered that:**

1. The request to review Board motion order LTB-L-076215-22-SA, issued on April 17, 2024, is denied. The order is confirmed and remains unchanged.

**May 17, 2024**

**Date Issued**

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Harry Cho

Vice Chair, Landlord and Tenant Board

15 Grosvenor Street, Ground 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.