



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

Citation: 2350117 ONTARIO INC v Gratton, 2024 ONLTB 32324

Date: 2024-05-03 **File Number:**
LTB-L-065920-22-RV

In the matter of: 1, 1750 WILSON AVE
NORTH YORK ON M3L1A8

Between: 2350117 ONTARIO INC Landlord

And

Amanda Gratton Tenant

Review Order

2350117 ONTARIO INC (the 'Landlord') applied for an order to terminate the tenancy and evict Amanda Gratton (the 'Tenant') because:

- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant;
- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has wilfully or negligently caused damage to the premises.

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

The Landlord also applied for an order requiring the Tenant to pay the Landlord's reasonable out-of-pocket costs the Landlord has incurred or will incur to repair or replace undue damage to property. The damage was caused wilfully or negligently by the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex.

This application was resolved by order LTB-L-065920-22 issued on December 8, 2023. Only the Landlord and his representative attended the hearing of the matter on November 14, 2023 and therefore, only the Landlord's evidence was considered.

On January 25, 2024, the Tenant requested a review of the order and that the order be stayed until the request to review the order is resolved.

On January 29, 2024, interim order LTB-L-065920-22-RV-IN was issued, staying the order issued on December 8, 2023.

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This application was heard in by videoconference on February 22, 2024. The Landlord, Landlord's representative E. Page, the Tenant and Tenant agent S. Dewar attended the hearing. Additionally, Vietnamese interpreter L. Tang attended to provide interpretation for the Landlord.

The Tenant utilized the services of Tenant Duty Counsel (TDC) prior to the hearing. At the commencement of the hearing, I explained to the Tenant that her agent S. Dewar would not be permitted to give evidence at the hearing if he was acting in the capacity of agent. The Tenant confirmed that she understood the role of her agent at the hearing and confirmed that she wished to proceed with Mr. Dewar acting on her behalf. During the course of the hearing, the Tenant and her agent were reminded of the scope of the agent's involvement in the hearing several times.

Determinations:

1. The Tenant's agent explained that allegation that the Board made a serious error relates to the Landlord's testimony given at the hearing. The Tenant alleges that the Landlord gave false testimony at the hearing and for this reason, the Tenant asserts that the Board erred in making an order in the Landlord's favour.
2. The Tenant testified that she did not receive the notice of hearing (NOH) and that she would not have missed the hearing if she was aware of it. She testified that there have been many issues with the mailbox in the lobby of the rental complex where she receives her mail. She testified that the mailbox was broken, leaving mail accessible to others to rummage through and steal. She also testified that her mailbox lock was broken for 6 months. She testified that the mailman left a note to the property manager advising that they could not access the property to leave mail, on or around the time she was evicted. She also testified that another resident received her mail on one or more occasions. She testified that the Landlord fixed the lock on her mailbox a couple of times in 2023, sometime in the spring and again in September 2023. She testified that the whole mailbox system is defective and not well maintained and that anyone can access the mail from anyone's mailbox. She acknowledged receipt of the order issued December 8, 2023, which she testified to receiving on December 23, 2023. On cross examination, the Tenant was questioned about informing the sheriff that she received the order on December 21, 2023. She testified that she has a bad memory and dyslexia and is not good with dates, which may have caused her to provide different

dates. The Tenant testified that she did receive the order in the mail and the sheriff's notice. She testified that she may have been away in the summer on vacation during the time the NOH was sent by mail. She denied receipt of a disclosure package by mail from the Landlord's representative in early November 2023. The Tenant acknowledged that she was evicted by the sheriff on January 9, 2024 and left her dog and cat behind. She testified that she found out after the fact that her animals had not been fed for many days and her dog had been confined in its cage after her eviction for 5 days. On cross examination, she confirmed that she informed the sheriff on the date she was evicted that other people in the complex would care for her animals in her absence. She testified that she is currently homeless and is unable to keep her animals with her but that they are still being cared for by persons in the rental complex.

3. The Landlord testified that there are no ongoing issues with the community mailbox or the Tenant's mailbox. He recalled requests to replace the Tenant's lock, which he testified was attended to promptly. He specifically referred to receiving a request from the Tenant to change the lock on her mailbox on September 17, 2023, which he attended to the following **File Number: LTB-L-065920-22**

date, September 18, 2023. He testified that he always attends to any maintenance issues reported right away. He testified that the Tenant's animals have been cared for by the superintendent of the complex since day one and that he also checks on the animals when he is at the complex. He testified that the Tenant has been given access to obtain clothes, possessions and to check on or retrieve her animals at least 5 times in the past 6 weeks since the Tenant was evicted. He testified that the Tenant's belongings are still in the unit and the unit is intact. The Tenant is welcome to retrieve her belongings and her animals at any time.

4. Based on the submissions made in the request and at the hearing, I am not satisfied that there is a serious error in the order or that a serious error occurred in the proceedings. The Member made their decision based on the uncontested evidence before them at the hearing. Accordingly, I find that there was no error in the order or during the proceedings.
5. On the issue of not reasonably able to participate, the Landlord seeks for the review to be denied because the Tenant alleges her mailbox was broken over a long period of time and/or frequently but provided no proof of her assertion. The Landlord's representative argued that it is convenient that the Tenant has received all other mail related to the tenancy and eviction proceedings, including the sheriff's notice by mail.
6. I am not satisfied that the Tenant was not reasonably able to participate in the proceeding. The Tenant's claim that the mailbox is in a state of disrepair or that her mail has been stolen or missing was unsupported by evidence to establish this assertion. The Board's mail records indicate that the NOH was sent to the Tenant at the rental unit by regular mail on August 16, 2023 and there is no record of the NOH being returned to the Board. In fact, none of the communications issued by the Board have been returned as undeliverable to the Tenant. I also accept that the Landlord's representative sent a disclosure package to the

Tenant by mail prior to the hearing. Based on the evidence before me, I am not satisfied that the Tenant was not reasonably able to participate in the proceeding.

It is ordered that:

1. The request to review order LTB-L-065920-22 issued on January 25, 2024 is denied. The order is confirmed and remains unchanged.
2. The interim order issued on January 29, 2024 is cancelled. The stay of order LTB-L065920-22 is lifted on May 14, 2024.

May 3, 2024

Date Issued

Donna Adams

Member, 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.