



## Order under Section 21.2 of the Statutory Powers Procedure Act and 78(6) of the Residential Tenancies Act, 2006

**Citation:** Dupont/Lansdowne Holdings Inc. v Kotai, 2023 ONLTB 78681

**Date:** 2023-12-01

**File Number:** LTB-L-039190-22-RV

**File Number:** LTB-L-073843-23

**In the matter of:** 212, 1407 DUPONT ST  
TORONTO ON M6H4J7

**Between:** Dupont/Lansdowne Holdings Inc. Landlord

**And**

Milan Sandor Kotai Tenant  
Eva Berki

### Review Order

Dupont/Lansdowne Holdings Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Milan Sandor Kotai and Eva Berki (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes (L1 application).

This application was resolved by order LTB-L-039190-22 issued on August 28, 2023. The hearing was held February 15, 2023 where the Landlord's legal representative Carrie Aylwin and the Tenant Eva Berki attended. At the hearing, the Tenant spoke with Tenant Duty Counsel.

On September 25, 2023, the Tenant Eva Berki requested a review of the order and that the order be stayed until the request to review the order is resolved.

On September 26, 2023, interim order LTB-L-039190-22-RV-IN was issued, staying the order issued on August 28, 2023.

The Landlord's L4 application LTB- L-073843-23, filed on September 26, 2023 was directed to hearing due to the stay issued by the Board for LTB-L-039190-22.

These applications were heard by videoconference on November 23, 2023.

The Landlord's legal representative Carrie Aylwin and the Tenant Eva Berki attended the hearing.

The Tenant spoke with Tenant Duty Counsel (TDC).



## Determinations:

1. In the review request, the Tenant asserts that at the February 15, 2023 hearing, she did not fully understand the terms agreed upon due to a language barrier. The Tenant said that due to this, the order contains a serious error as she did not understand what she was agreeing to pay to the Landlord.
2. I have listened to the February 15, 2023 hearing recording and I have reviewed the Board's application record. On the basis of the submissions made by the parties, I am not satisfied that a serious error occurred in the proceedings or that an order contains a serious error.
3. The Tenant asserts that on the date of the hearing, she spoke with Tenant Duty Counsel and then private mediation with the Landlord's legal representative. When the matter came before the adjudicator, she consented to an order to pay the Landlord for arrears of rent and ongoing rent. The Tenant said that after receiving the order, she was confused and did not understand the order or the terms she agreed to. She said has she had a Hungarian interpreter at the hearing, she would not have consented to this agreement.
4. The Landlord's legal representative opposes the Tenant's review request for several reasons. She said the Tenant spoke with TDC and based on her experience before the Board, had TDC identified an issue with the Tenant's ability to participate at the hearing, TDC would have made this known to the presiding Member.
5. Additionally, the Landlord's legal representative said that she is duty-bound to ensure the Tenant understands any terms discussed in private mediation and had this been an issue, she would not have proceeded to hearing for an agreement on consent.
6. The Landlord's representative said that the presiding Member was diligent at the hearing and ensured the Tenant understood the terms of the consent and the consequences of the consent.

### Analysis

7. As explained at the hearing, consent orders are not easily challenged on review or appeal.
8. In *Li V. Gibson*, 2018 ONSC 1347, paras. 23-25:

"The court will typically uphold a consent order on the basis that such orders can only be set aside on grounds such as common mistake, misrepresentation, fraud or other grounds that would invalidate a contract.

9. It is clear from the record that the Tenant had the assistance of TDC and she agreed to the consent order after private consultation with the Landlord's legal representative. Neither TDC nor the Landlord's legal representative flagged this as an issue for the presiding Member.



10. The hearing recording also confirms that the presiding Member carefully reviewed the terms of the consent and also asked the Tenant to repeat back her understanding of the terms she was agreeing to. The recording clearly shows that the Tenant did not have any degree of misunderstanding. Because the Tenant did not demonstrate that she was denied procedural fairness, I find that an error did not occur in the proceedings.
11. Based on the above, I find the Tenant was reasonably able to participate at the hearing and exercised her right to fully participate. It cannot be said that the order contains a serious error as the order articulates the terms agreed upon by the parties. The Tenant's request to review the order must be denied.
12. This determination was made in the hearing room with the parties. As such, the Landlord's legal representative requested to withdraw the L4 application.
13. This order contains all of the reasons for the decision within it. No further reasons shall be issued.

**It is ordered that:**

1. The request to review order LTB-L-039190-22 issued on August 28, 2023 is denied. The order is confirmed and remains unchanged.
2. The interim order issued on September 26, 2023 is cancelled. The stay of order LTB-L039190-22 is lifted immediately.
3. The Landlord's L4 application LTB-L-073843-23 is dismissed as withdrawn.

**December 1, 2023**

**Date Issued**

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Dana Wren

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.