



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

Citation: Starlight blackstar OPCO 2 ULC v Reginio, 2023 ONLTB 62373

Date: 2023-09-20 **File Number:**
LTB-L-062986-22-RV

In the matter of: 608, 3045 QUEEN FREDERICA DR MISSISSAUGA
ON L4Y3A2

Between:	Starlight blackstar OPCO 2 ULC	Landlord
And		
	Salvacion Reginio	Tenant

Review Order

Starlight blackstar OPCO 2 ULC (the 'Landlord') applied for an order to terminate the tenancy and evict Roy Reginio (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-062986-22 issued on May 24, 2023.

On July 27, 2023, the Tenant, Slavacion Reginio requested a review of the order and that the order be stayed until the request to review the order is resolved.

On July 28, 2023 interim order LTB-L-062986-22-RV-IN was issued, staying the order issued on July 28, 2023.

The review request was heard by videoconference on September 7, 2023.

The Landlord's Representative, Krizia Hernandez, the Tenant and the Tenant's Representative, Shibil Siddiqi attended the hearing.

Determinations:

Review:

1. The Landlord identified Roy Reginio as the sole Tenant on the N4 Notice of Termination and their L1 application. The Landlord concedes there's no one named Roy Reginio that ever resided in the unit. There was a Roy Hutton who last resided in the unit 20 years ago and he is not as a party on the tenancy agreement. The Board did not send a Notice of



Hearing to the Tenant, Salvacion Reginio because she was not listed as a party to the application.

2. I considered the party named on the L1 application shares the same surname as the Tenant, but no submissions were made by the Landlord's legal representative about a clerical error. There is an expectation that the Landlord undertake due diligence when they pursue remedy through legal proceedings given the consequences.
3. On the basis of the submissions made in the request, I am satisfied the Tenant was not reasonably able to participate in the proceeding because she did not receive Notice of the hearing held on April 27, 2023.

Determinations:

4. The Landlord requested the application be withdrawn because the Tenant has paid all the rent owing to September 30, 2023 including the application fee to discontinue the application.
5. In accordance with subsection 200(4) of the Act, I consent to the withdrawal of the application.

Tenant's Request for costs:

6. The Landlord charged the Tenant \$186.00 for the filing fee for an application that was made against a person that does not exist. The Landlord failed to serve an amended L1 application either on or before the original hearing on April 27, 2023 or on or before the review hearing on September 7, 2023 to the Tenant, therefore, it is not reasonable that the Tenant be responsible the Landlord's costs.
7. I find the Tenant is entitled to \$53.00 for the review filing fee. The Tenant was successful in obtaining an order which allowed the review which cancelled the order issued on May 24, 2023.
8. The Tenant not having knowledge of Board proceedings or of the legislation obtained and incurred unnecessary legal costs for the review hearing which could have been avoided had the Landlord named the right party. This caused a material error in the order issued on May 24, 2023. The error was not a result of Board administrative processes. The Landlord also did not take steps to amend the application after it was filed on October 27, 2022 in accordance with the Board's Rules of Procedure. This is a corporate landlord who's familiar with Board's processes and attends LTB hearings regularly. The Landlord's lack of due diligence is unreasonable conduct when I consider the seriousness and consequences of the legal proceedings that led the Board to issue an eviction order. There's a presumption that the information on the application is accurate and at no time during the process did the Landlord attempt to correct the material error. This led to



unnecessary costs for legal representation/preparation fees incurred by the Tenant and a waste of Board's time and resources.

9. In accordance with the Board's Rules and Interpretation Guideline 3, a finding of unreasonable conduct justifies a cost award. Subsection 204(3) of the *Residential Tenancies Act, 2006* (the 'Act') gives the Board authority to order costs of a proceeding be paid by a party or a paid agent or legal representative. The Tenant is seeking representation/preparation fees up to the Boards maximum of \$700.00 in accordance with Rule 23 of the Board's Rules of Procedure which I find reasonable. I considered the Review request was filed by the Tenant's legal counsel which was accompanied by a 15page detailed submission outlining reasons for the review of the order dated May 24, 2023.

The Tenant also incurred cost requiring her Representative to attended and defend the review request at the review hearing including waiting time before the proceeding started. 10. The total costs the Landlord owes is \$939.00 (\$186.00 + \$53.00 +\$700.00)

It is ordered that:

1. The request to review order LTB-L-062986-22 issued on May 24, 2023, is granted. The order is cancelled and replaced as follows:
2. The application is dismissed.
3. The Landlord shall pay the Tenant \$939.00 on or before September 31, 2023.
4. If the Landlord does pay the Tenant the full amount on or before September 31, 2023, the Tenant is authorized to deduct \$500.00 from October 2023 rent charges and \$439.00 (balance outstanding) from November 2023 rent charges.

September 20, 2023

Date Issued

Sandra Macchione

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.