



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

Citation: Thayalan v Joseph David, 2023 ONLTB 57365

Date: 2023-08-16 **File Number:**
LTB-T-076045-22-RV

In the matter of: 39 Ronway Crescent
Toronto Ontario M1J2S1

Between: Jayamathy Thayalan Tenants
Thayalan Selvaratnum
Nivishaa Thayalan
Vaishavi Thayalan
Krishan Thayalan

And

Subashini Joseph David Landlords
Yogeswaran Arimuthu

Review Order

Jayamathy Thayalan, Thayalan Selvaratnum, Nivishaa Thayalan, Vaishavi Thayalan and Krishan Thayalan (the 'Tenants') applied for an order determining that Subashini Joseph David and Yogeswaran Arimuthu (the 'Landlords') gave a notice of termination in bad faith.

This application was resolved by order LTB-T-076045-22 issued on June 7, 2023.

On August 10, 2023, the Tenants requested a review of the order.

A preliminary review of the Tenants' review request was conducted without a hearing.

Determinations:

1. The hearing of the application took place on April 26, 2022. Only the Tenants attended the hearing. The Tenants' application was granted.
2. The Tenants submit that the final order contains the following serious errors:
 - (a) There were inadequate reasons provided for the general compensation claim.



(b) There were inadequate reasons provided for the claim that each Tenant should be compensated \$22,105.75.

3. For the reasons set out below, the Tenants' request to review is denied.
4. The Tenants' amended application has the following remedies requested on the form:
 - Administrative fine
 - Rent differential \$16,200.00
 - Moving and storage expenses \$4,011.50
 - Other remedies [no amount identified]
5. In the explanation box regarding 'Other remedies', the Tenants state the following:

Land lord must compensate for my daughter's post concussion injury treatment expenses, due to the fall at the basement stairs which did not have proper hand rail. We informed the land lord before even began our tenancy to fix it for us in 2015. It was land lord's negligence. Currently, paying from our own pocket for physio/chiro/counseling treatments for the time being.

Land lord never compensated one month rent for N-12 Notice given by law, when we moved.

See attached Schedule A

6. In Schedule A of the Tenants' application, the Tenants state the following:
 9. The tenants allege that the landlord gave the N12 Notice of Termination in Bad Faith. The tenant is seeking the following damages:
 - a. Moving expenses in the amount of \$4,011.50
 - b. The difference in rent for 12 months being \$16,200
 - c. 12 months of general compensation in the amount of \$24,000, this being equal to 12 months of regular monthly rent as permitted under section 57 (3) 1.1 of the Residential Tenancies Act, 2006.
 - d. The tenant(s) is seeking a total of 44,211.50,
 - e. The tenants seek individually an amount of \$22,105.75 each.

General Compensation

7. I find that the hearing member provided adequate reasons for the general compensation award.
8. I find that the amount plead for general compensation was \$24,000.00. I make this conclusion because the explanation box under "other remedy" states 'See Schedule A'. Paragraph 9 of the Schedule A reiterates the amounts identified in the form regarding the



moving expenses and rent differential. It follows that the amount plead in paragraph 9(c) is for the “other remedy”, regarding the Tenants’ daughter’s post concussion treatments from the broken handrail.

9. The hearing member’s final order addresses the general compensation claim in paragraphs 25 to 27. The order sets out in sufficient detail the reasons why the hearing member arrived at their conclusions. The order, for example, identifies that they were not awarding compensation as the application is not related to maintenance or Tenant rights. These findings are rationally connected to what was plead in the application regarding the handrail. The order is therefore an adequate order. Put differently, the hearing member’s findings of fact are not capricious.

Individual Claim

10. I find that the hearing member provided adequate reasons for the compensation requested and therefore, there was no serious error in this regard.
11. Paragraph 9 of the Tenants’ Schedule A seeks a global amount of \$44,211.50 above. This amount is based on the total of the moving expenses, rent differential and general compensation. The Tenants requested that each Tenant be awarded \$22,105.75, or half the global amount.
12. The hearing member granted the Tenants’ claim for moving expenses and rent differential. The Tenants do not dispute this. The hearing member denied the Tenants’ claim for general compensation and as found above, this decision was not unreasonable. Although another Board Member may have exercised their discretion to grant a different monetary amount, the presiding member is entitled to deference.
13. It appears that the Tenants are suggesting that each Tenant should have individually been granted the amount awarded by the Board. The Board’s records show that the Tenants filed one application and paid one filing fee. Therefore, the Board has the jurisdiction to grant the Tenants one amount. The order and application do not show that the Tenants requested to sever the application pursuant to section 199 of the *Residential Tenancies Act, 2006* (the ‘Act’). Pleading an individual amount in the application does not constitute severance. Therefore, there was no serious error for the hearing member to award one amount for the Tenants.
14. On the basis of the submissions made in the request, I am not satisfied that there is a serious error in the order or that a serious error occurred in the proceedings and/or that the Tenants was not reasonably able to participate in the proceeding.



It is ordered that:

1. The request to review order LTB-T-076045-22 issued on June 7, 2023 is denied.
2. The order is confirmed and remains unchanged.

August 16, 2023

Date Issued

Camille Tancioco

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.