



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

Citation: IVANOVA v KENT, 2023 ONLTB 52499

Date: 2023-07-27

File Number: LTB-L-006297-23-RV

In the matter of: 1336 DEMERS AVENUE
KINGSTON ON K7M3X9

Between: MARINA IVANOVA Landlord
EGOR LIK

And

KIMBERLEY KENT Tenant
CHAD COMPEAU

Review Order

MARINA IVANOVA and EGOR LIK (the 'Landlord') applied for an order requiring KIMBERLEY KENT and CHAD COMPEAU (the 'Tenant') to pay the rent that the Tenant owes.

This application was resolved by order LTB-L-006297-23 issued on May 31, 2023. The hearing was held by video conference on March 30, 2023 where the Landlords and the Tenants attended the hearing

On June 7, 2023, the Tenants requested a review of the order and that the order be stayed until the request to review the order is resolved.

On June 13, 2023 interim order LTB-L-006297-23-RV-IN was issued, staying the order issued on May 31, 2023.

The review was heard by videoconference on July 6, 2023.

The first named Landlord and the Tenants attended the hearing. The Landlord confirmed she had authorization to speak on behalf of the second named Landlord.

The Tenants spoke with Tenant Duty Counsel.

Determinations:

1. The original order issued May 31, 2023 granted the Landlords' application and ordered the Tenants to pay to the Landlords arrears of rent owing up to January 31, 2023 and costs, less the rent deposit and interest.



2. In the review request, the Tenants assert that the presiding Member erred when he failed to provide reasons for his finding that the parties had agreed to terminate the tenancy.
3. The interim order, subject to the hearing Member's discretion identified the following issues to be determined:
 - a) Did the Member seriously err by giving no reasons for the implicit finding that he was not satisfied that the parties had agreed to terminate the tenancy with an early termination date of January 5, 2023; and
 - b) Did the Member seriously err by failing to consider whether the Landlords had taken reasonable steps to minimize their losses, as required by subsection 88(4) of the Residential Tenancies Act, 2006 (the 'Act')?
4. 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 or that the Tenants were not reasonably able to participate in the proceeding.
5. I have listened to the March 30, 2023 hearing recording and have reviewed the Board's record. The hearing recording confirms the presiding Member sought submissions on the circumstances pertaining to the termination of the tenancy.
6. I acknowledge that the May 31, 2023 order does not provide a detailed analysis as to the Member's finding with respect to the circumstances surrounding the termination of the tenancy. However, the hearing recording confirms that the presiding Member took submissions from both parties and made a finding of fact that the parties entered into an agreement to terminate the tenancy.
7. At the hearing, I assessed the circumstances of each party and based on the evidence before the Board and on a balance of probabilities, I accept the Landlord's position with respect to the agreed upon termination date.
8. I note, a Member is not required to introduce, reference or explain every piece of evidence that was introduced at a hearing in the Order. In this case, the Member was in the best position to admit and consider the parties' relevant evidence and to make findings of fact. Since there was evidence before the Member to conclude the parties entered into an agreement to terminate the tenancy and the dates and details discussed, the presiding Member's findings of fact are rational and entitled to deference and falls within a reasonable range of outcomes.
9. With respect to the issue of the Landlord's efforts to mitigate loss as per s.88(4) of the ACT, I acknowledge both the hearing recording and Order on silent on this issue. However, at the hearing I was satisfied that he Landlord made every effort to minimize their loss when they advertised the unit for rent in late November, early December, 2022 on Face Book Marketplace and Kijiji with approximately 7 showings in January 2023, with the commencement of a new tenancy in February, 2023. Accordingly, I am satisfied that the Landlords have met their obligations with respect to s.88(4).
10. Based on the evidence before the Board and on a balance of probabilities, I find the May 31, 2023 Order does not contain a serious error. The presiding Member assessed the facts to determine that, although the Tenants dispute the agreed upon termination date,



the tenancy was terminated January 31, 2023, meaning the Tenants were obligated to pay rent until the end of January 2023.

11. The Tenants have not demonstrated that a serious error may exist in the May 31, 2023 Order, or that a serious error may have occurred in the proceedings. The request to review the Order must accordingly be denied.

It is ordered that:

1. The request to review order LTB-L-006297-23 issued on May 31, 2023 is denied. The order is confirmed and remains unchanged.
2. The interim order issued on June 13, 2023 is cancelled. The stay of order LTB-L-006297-23 is lifted immediately.

July 27, 2023

Date Issued

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.