



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

Citation: EQB LTD v Kody Ryan, 2023 ONLTB 45444

Date: 2023-06-23 **File Number:**
LTB-L-061070-22-RV

In the matter of: 310B, 721 EARLSCOURT DR SARNIA
ON N7S1V1

Between: EQB LTD Landlord

And

Kody Ryan Tenant

Review Order

EQB LTD (the 'Landlord') applied for an order to terminate the tenancy and evict Kody Ryan (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-061070-22 issued on May 5, 2023.

On May 18, 2023, the Tenant requested a review of the order and that the order be stayed until the request to review the order is resolved.

On May 19, 2023 interim order LTB-L-061070-22-RV-IN was issued, staying the order issued on May 5, 2023.

This application was heard in by videoconference on June 13, 2023.

The Landlord's Representative, Jane Seale, the Tenant and the Tenant's Representative, Melissa Bradley attended the hearing.

Determinations:

Review:

1. The Landlord consents to the Tenant's review request to cancel order issued on May 5, 2023. The original application is heard de novo.

L1 Application:



1. The Landlord served the Tenant with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). The Tenant did not void the notice by paying the amount of rent arrears owing by the termination date in the N4 Notice or before the date the application was filed.
2. As of the hearing date, the Tenant was still in possession of the rental unit. out of
3. The lawful rent is \$1,110.10. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$36.50. This amount is calculated as follows: \$1,110.10 x 12, divided by 365 days.
5. The Tenant has paid \$7,353.27 to the Landlord since the application was filed.
6. The rent arrears owing to June 30, 2023 are \$391.11.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlord collected a rent deposit of \$1,075.00 from the Tenant and this deposit is still being held by the Landlord. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.
9. Interest on the rent deposit, in the amount of \$24.68 is owing to the Tenant for the period from November 18, 2021 to April 26, 2023.
10. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would not be unfair to grant relief from eviction pursuant to subsection 83(3)(a) of the Act.
11. On February 20, 2023 there was a fire in the building. There is no dispute that currently the rental unit has serious outstanding maintenance issues which has rendered the Tenant currently homeless. Given the circumstances, the Board must refuse eviction as required by section 83(3)(a) of the Act.
12. The Tenant was seeking an abatement of rent in February 2023 which is not properly before me as he provided no advance notice to the Landlord of issues he intended to raise in this hearing. Since the Tenant has not complied with section 82(2) of the Act, I have no jurisdiction to consider the merits of any claim or remedy sought.
13. The Tenant has filed his own application LTB-T-29847-23 and this application is also not properly before me.

It is ordered that:

1. The request to review order LTB-L-061070-22 issued on May 5, 2023 is granted.



2. The order issued May 5, 2023 is cancelled and cannot be enforced.
3. The Order LTB-061070-22 issued on May 5, 2023 is replaced as follows:
4. On or before September 30, 2023, the Tenant shall pay the Landlord \$577.11 representing the arrears owing to June 30, 2023 and the cost of the application fee.
5. If the Tenant does not pay the Landlord the full amount owing* on or before September 30, 2023, the Tenant will start to owe interest. This will be simple interest calculated from October 1, 2023 at 6.00% annually on the balance outstanding.

June 23, 2023

Sandra Macchione
Member, Landlord and Tenant Board

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Date Issued

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.



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2023 ONL TB 45444 (CanLI)