



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

Citation: Shanmugam v Osaretin Stephen, 2023 ONLTB 42665

Date: 2023-06-13 **File Number:**
LTB-L-027464-22-RV

In the matter of: Basement, 172 Allegro Drive Brampton
ON L6Y5Y6

Between: Vijayathasa Shanmugam Landlord

And

Osula Osaretin Stephen Tenant

Review Order

Vijayathasa Shanmugam (the 'Landlord') applied for an order to terminate the tenancy and evict Osula Osaretin Stephen (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-027464-22 issued on January 24, 2023.

On February 7, 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 February 13, 2023 interim order LTB-L-027464-22-RV-IN was issued, staying the order issued on January 24, 2023.

The Tenant's request to review was resolved by LTB-L-027464-22- RV issued on March 28, 2023.

On May 5, 2023 the Tenant requested that order LTB-L-027464-22- RV issued on March 28, 2023 be reviewed and that the order be stayed until the request to review the order is resolved.

On May 8, 2023 interim order LTB-L-027464-22-RV-IN was issued, staying the order issued on March 28, 2023.

This second request to review was heard by videoconference on May 31, 2023

Only the Landlord's Agent, Nilani Rajalingam, attended the hearing. As of 1:38 pm, the Tenant was not present or represented at the hearing although properly served with notice of this review hearing by the LTB. There was no record of a request to adjourn the hearing. As the Tenant was



not present in the hearing room, the Tenant's request to review was deemed abandoned and was denied. The Landlord's Agent left the hearing room.

After the Landlord's Agent left the hearing room, the Tenant called into the hearing at 1.49 p.m. The Tenant submitted that he had technical difficulties in signing into the hearing. As the Landlord had already left the hearing room, I informed the Tenant that his request to review had already been considered by the Board and was denied because the Tenant was not present in the hearing room at the time his request to review was considered.

Procedural history:

1. This is the second review request by the Tenant for the same proceeding.
2. The Landlord's application was first heard by videoconference on January 5, 2023. Only the Landlord's representative attended the hearing scheduled for 1:p.m.. As of 1:56 p.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.
3. This application was resolved by order LTB-L-027464-22 issued on January 24, 2023.
4. The Tenant requested to review the order stating that he was not reasonably able to participate in the proceedings because he did not receive the Notice of Hearing.
5. The Tenant's first request to review was heard by videoconference on March 7, 2023. Again, only the Landlord's legal representative attended the hearing. As of 1:50 pm, the Tenant was not present or represented at the hearing although properly served with notice of this review hearing by the LTB. There was no record of a request to adjourn the hearing.
6. The Tenant's request to review was denied by LTB-L-027464-22- RV issued on March 28, 2023.
7. On May 5, 2023 the Tenant requested that order LTB-L-027464-22- RV issued on March 28, 2023 be reviewed.
8. Rule 26.18 of the Board's Rules of Procedure provides that the LTB will not consider a further request to review the same order or to review the review order from the same requesting party. Rule A4.2 permits the Board to waive the application of any rule. The Board will only do so in extraordinary circumstances. The Board considered that the Tenant's circumstances may be extraordinary as the Tenant noted that he did not receive the Notice of Hearing for either hearing because he was not receiving his mail. Moreover, the eviction order had been executed and the Tenant was no longer residing in the rental unit.



Determinations:

9. This second request to review was heard by videoconference on May 31, 2023.
10. Only the Landlord's Agent attended the hearing. As of 1:38 pm, the Tenant was not present or represented at the hearing although properly served with notice of this review hearing by the LTB. There was no record of a request to adjourn the hearing.
11. I reviewed the Board record to establish whether the Tenant was served with the Notice of Hearing. The Board record confirmed that in this instance the Notice of Hearing was sent to the Tenant by email. This is the same email that the Tenant communicated with the Board. As such, I was satisfied that the Tenant was properly served with the Notice of Hearing
12. It was the Landlord's position that the Tenant's behaviour amounts to abuse of process. As the Tenant uses delay tactics to avoid paying the arrears of rent. The Tenant has not paid any rent since February 2020. This is causing the Landlord significant financial prejudice. This is the third missed attendance of the Tenant at a Board hearing with respect to the Landlord's application.
13. The Notice of Hearing instructs parties to sign into the hearing 15 minutes prior to the hearing, that is at 12.45 p.m. in this instance. The Tenant did not call in until 1.49 p.m., that is more than one hour after the sign in time.
14. As the Tenant was not present in the hearing room when the matter was called, and the Tenant was properly served with notice of this review hearing, the Tenant's request to review was deemed abandoned and was denied.

It is ordered that:

1. The request to review order LTB-L-027464-22-RV issued on March 28, 2023, is denied. The order is confirmed and remains unchanged.
2. The interim order issued on May 8, 2023, is cancelled. The stay of order LTB-L-027464-22 is lifted immediately.



June 13, 2023

Date Issued

Jana Rozehnal

Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor Toronto
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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.