



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

Citation: Wang v Watson, 2023 ONLTB 37742

Date: 2023-06-09

File Number: LTB-L-075399-22-RV

In the matter of: LOWER UNIT, 509 AYLMER AVE
WINDSOR ON N9A1T7

Between: Yi Wang Landlord

And

Deanna Watson and Tenants
Pratheesh Srinivasan

Review Order

Yi Wang (the 'Landlord') applied for an order to terminate the tenancy and evict Deanna Watson and Pratheesh Srinivasan (the 'Tenants') and for an order to have the Tenants pay the rent the Tenants owes because the Tenants failed to meet a condition specified in the order issued by the Board on October 6, 2022 with respect to application LTB-L-006808-22-RV.

This application was resolved by order LTB-L-075399-22 issued on April 6, 2023.

On April 14, 2023, the Landlord requested a review of the order and that the order be stayed until the request to review the order is resolved.

On April 18, 2023, interim order LTB-L-075399-22 -RV-IN was issued, staying the order issued on April 6, 2023.

This application was heard in by videoconference on May 9, 2023. Only the Landlord attended the hearing. As of 9:31 a.m., the Tenants were not present or represented although properly served with notice of this hearing by the Board. As such, the matter proceeded with only the Landlord's evidence.

Determinations:

Request to Review

1. The Landlord filed an L4 application to terminate the tenancy an evict the Tenant based on the Tenant's alleged breach of Order LTB-L-006808-22-RV issued on October 6, 2022.

2. The application was sent to a hearing as the previous order noted three Tenants, but the application only named two Tenants. The application was scheduled to be heard on March 9, 2023.
3. The Landlord submitted that she was not reasonably able to participate in the proceedings as she did not receive a Notice of Hearing. The Board's records show that the Landlord was mailed the Notice. She states that she has not had any issues with receiving mail. Once she received the Board's final order via email, and she filed request to review immediately.
4. I find that the Landlord was not reasonably able to participate in the hearing. The Landlord's believable and credible evidence was that she did not receive any Notice and I am satisfied that if she had, she would have attended the hearing. The Landlord also acted diligently once she discovered she missed the proceedings and filed a request to review shortly after receiving the Board's order.

De Novo

5. Order LTB-L-006808-22-RV provided that the Landlord could apply to the Board under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') without notice to the Tenant to terminate the tenancy and evict the Tenant if the Tenant did not meet certain condition(s) specified in the order.
6. Based on the uncontested evidence of the Landlord, I find that the Tenants have not met the following conditions specified in the order:
The Tenant did not pay \$315.00 on or before September 23, 2022.
The Tenant did not pay \$205.00 on or before October 14, 2022.
7. The previous application included a request for an order for the payment of arrears of rent. The resulting mediated settlement required the Tenant to pay rent or some or all of the arrears of rent. Accordingly, in addition to eviction, the Landlord is entitled to request an order for the payment of arrears of rent and compensation.
8. The amount that is still owing, according to the terms of the order, for arrears of rent, is \$2,469.00.
9. Since the date of the order, the Tenant has failed to pay the full rent that became owing for the period from October 2022 to June 2023.
10. The Landlord collected a rent deposit of \$1,300.00 from the Tenant and this deposit is still being held by the Landlord.
11. I have considered all of the disclosed circumstances in accordance with subsection 83 of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. The Tenants were not present to disclose any circumstances for me to consider delaying or denying eviction. Further, the Landlord was not aware of any of the Tenants' circumstances for me to consider delaying or denying eviction.

It is ordered that:

1. The request to review order LTB-L-075399-22 issued on April 6, 2023 is granted. The order is cancelled and replaced with the following:
2. Order LTB-L-006808-22-RV is cancelled.
3. The tenancy between the Landlord and the Tenants is terminated. The Tenants must move out of the rental unit on or before June 20, 2023.
4. If the unit is not vacated on or before June 20, 2023, then starting June 21, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
5. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord on or after June 21, 2023.
6. The Tenants shall pay to the Landlord \$2,908.98. This amount represents the rent owing up to June 9, 2023 and the cost of filing the previous application, less the rent deposit and interest the Landlord owes on the rent deposit.
7. The Tenants shall pay to the Landlord \$43.23 per day for compensation for the use of the unit starting June 10, 2023 to the date the Tenant moves out of the unit.
8. If the Tenants do not pay the Landlord the full amount owing on or before June 20, 2023, the Tenants will start to owe interest. This will be a simple interest calculated from June 21, 2023 at 6.00% annually on the balance outstanding.

June 9, 2023
Date Issued

Camille Tancioco
Member, Landlord and Tenants Board

15 Grosvenor Street, Ground Floor,
Toronto ON M7A 2G6

The Tenant has until June 19, 2023 to file a motion with the LTB to set aside the order under s. 78(9) of the Act. If the tenant files the motion by June 19, 2023 the order will be stayed and the LTB will schedule a hearing.

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.

In accordance with section 81 of the Act, the part of this order relating to the eviction expires on November 30, 2023 if the order has not been filed on or before this date with the Court Enforcement Office (Sheriff) that has territorial jurisdiction where the rental unit is located.