



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

Citation: Santo Filippelli v Jitender Mago, 2023 ONLTB 44122

Date: 2023-06-08

File Number: LTB-L-069507-22-RV

In the matter of: MAIN AND SECOND FLOOR, 612 ORANGE
WALK CRES
MISSISSAUGA ON L5R0A3

Between: Santo Filippelli Landlord

And

Jitender Mago Tenant

Review Order

Santo Filippelli (the 'Landlord') applied for an order to terminate the tenancy and evict Jitender Mago (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard on May 9, 2023 and resolved by order LTB-L-069507-22 issued on May 18, 2023. Only the Landlord and their legal representative attended the hearing.

On May 30, 2023, the Tenant requested a review of the order and that the order be stayed until the request to review the order is resolved.

A preliminary review of the review request was completed without a hearing.

Determinations:

1. 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 Tenant was not reasonably able to participate in the proceeding.
2. The Landlord's application was heard in videoconference room VC121 on an uncontested basis as neither the Tenant nor an agent or representative of the Tenant attended the hearing on May 9, 2023. The hearing recording and application record confirms that the Tenant's son submitted a request to reschedule the hearing prior to the May 9, 2023 hearing date. This request was not granted ex-parte and the hearing recording confirms that the Landlord did not consent to the request to reschedule the hearing.
3. In the review request the Tenant alleges that the order contains a serious error. The request alleges that the Tenant's son logged into videoconference room VC101 and spoke to the presiding Member in that videoconference who granted the Tenant an adjournment of the matter. The request states that the Tenant's son logged into the wrong videoconference because he could not locate the notice of hearing for the L1 application

and as such, resorted to logging into the VC line used for a previously scheduled hearing between the parties.

4. I have listened to the hearing recordings from both VC101 and VC121. Neither hearing recording confirms the Tenant or their son logging in, requesting an adjournment of the matter and being granted an adjournment.
5. I find that there was no error for the presiding Member to proceed with the hearing on an uncontested basis. The Divisional Court has repeatedly affirmed that parties to an application are required to follow the Board's process to reschedule or adjourn a hearing: *Lacroix v. Central-McKinlay International Ltd.*, 2022 ONSC 2807 (Div. Ct.) (CanLII); *Wang v. Oloo*, 2023 ONSC 1028 (Div. Ct.) (CanLII). The Tenant did not receive confirmation from the Board that their request to reschedule the hearing was granted and therefore the Tenant was required to attend the hearing either in person or through an authorized agent or representative to request an adjournment of the matter. As stated above, the Board's records show that no such effort was made. Parties cannot assume that their requests for adjournment will be automatically granted on an ex-parte basis.
6. I find that it is highly unlikely that another Board Member in a separate videoconference would grant the Tenant an adjournment of a matter that was not scheduled before them. As stated above, there is no record of such request or ruling granting this request.
7. I further find that even if the Tenant's allegation regarding their son logging into the wrong VC line to be true, that this would not warrant a serious error or a situation where the Tenant was not reasonably able to participate in the proceedings.
8. The Tenant's own submissions confirm that they received notice of hearing from the Board for the May 9, 2023 hearing. If the Tenant had in fact misplaced his notice of hearing, the Tenant should have contacted the Board via telephone or email to confirm the correct VC line to participate in the hearing. The Tenant's son choosing to log into a VC line not assigned to the respective file is a lack of diligence in my view. The Divisional Court has stated in *Q Res IV Operating CP Inc. v. Berezovs'ka* 2017 ONSC 5541 "[I]f parties are not diligent in dealing with legal proceedings then they cannot demand that a Tribunal waste its resources by rehearing matters a second time. To allow this would undermine the ability of the administration of justice to deliver timely cost-effective and final orders".
9. As stated, the Board's records show no indication that the Tenant or their son logged into either videoconference. However, even if the Tenant's son logged into the wrong videoconference, their own submissions is that this was wilfully done. The request does not suggest that the Tenant contacted the Board's customer service centre to inquire as to where the video hearing was taking place, nor does the request suggest that the Tenant's son asked the Member of the other videoconference (VC101) for instructions to log into the correct video hearing.
10. As such, I find that the Tenant was reasonably able to participate in the proceedings, but failed to do so through their own lack of due diligence and neglect for the Board's procedure on adjournments and rescheduling.
11. The remainder of the review request alleges a serious error in the order with respect to the amount of arrears ordered. As the Tenant did not attend the hearing to dispute the

Landlord' evidence, I find that there is no error in the Member's determinations and findings as they were based on the un-contested evidence before them.

12. As I am not satisfied that the Tenant was not reasonably able to participate in the proceedings or that there is a serious error in the order or proceedings, the request for review must be denied.

It is ordered that:

1. The request to review order LTB-L-069507-22 issued on May 18, 2023 is denied. The order is confirmed and remains unchanged.

June 8, 2023

Date Issued

Fabio Quattrociochi

Member, Landlord and Tenant Board

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