



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

Citation: BOONE v. ELANGESWARAN, 2023 ONLTB 43906

Date: 2023-06-07 **File Number:**
LTB-T-000836-23-RV

2023 ONLTB 43906 (CanLII)

In the matter of: 2096 RUDELL ROAD
NEWCASTLE ON L1G1B9

Between: MARCIA BOONE Tenant

And

JEVEETHAN ELANGESWARAN Landlord

Review Order

MARCIA BOONE (the 'Tenant') applied for an order determining that the Landlord gave a notice of termination in bad faith; and that the Landlord retained or collected money illegally.

This application was resolved by order LTB-T-000836-23, issued on May 17, 2023.

On June 6, 2023, the Landlord requested a review of the order.

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.
2. The Landlord submits that the Board did not have jurisdiction to order the Landlord to pay the difference in rent the Tenant has been required to pay after vacating the rental unit. The Landlord submits that the Tenant did not properly request the remedy when filling out the Board's T5 Application Form for an order determining the Landlord gave the notice of termination in bad faith.
3. The May 17, 2023 order shows that this issue was brought to the presiding Board Member's attention at the May 1, 2023 Board hearing. In rejecting the Landlord's submission at the hearing, the Board Member determined that the Tenant's T5 Application adequately requested an order under subsection 57(3)1.1 of the *Residential Tenancies Act, 2006* (the 'Act'). Although the Tenant did not check-off the correct box on the

application form, the Member found that the explanation for the claim gave the Landlord sufficient notice of the issue to be determined at the hearing. The Member writes at paragraph 30:

While the Tenant sought this general compensation in the rent abatement

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area of the application, they clearly articulate in writing the amount being sought and the legal basis for it. I found the Landlord could not possibly be confused or surprised by this claim for general compensation. The application clearly states “as per Bill 184” and seeks one year’s rent. The application stipulates the amount being requested.

4. I agree with the presiding Board Member that, notwithstanding the error in checking-off an incorrect box on the T5 Application Form, a reasonable person would understand that the Tenant sought an order requiring the Landlord to pay the rent differential for a 12-month period, pursuant to subsection 57(3)1.1 of the Act.
5. The Board’s review process is not an opportunity for a party to re-argue an application that has been determined, with the hope of achieving a different result. In this present case, after having found that the Board Member did not err by finding that the Tenant’s claim for the difference in rent was adequately pled in the T5 Application, I conclude that the Landlord has not shown that a serious error may exist in the order, or that a serious error may have occurred in the proceedings. The Landlord’s request to review the May 17, 2023 order must therefore be denied.

It is ordered that:

1. The request to review order LTB-T-000836-23, issued on May 17, 2023, is denied. The order is confirmed and remains unchanged.

June 7, 2023

Date Issued

Harry Cho

Vice Chair, 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.

