



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

Citation: Burm v Woods, 2023 ONLTB 40041

Date: 2023-05-19 **File Number:** LTB-L-036528-22-RV(2)

In the matter of: 188 Brock St Dresden
ON N0P1M0

Between: Lori Burm Landlord

And

Amanda Woods Tenant

Review Order

Lori Burm (the 'Landlord') applied for an order to terminate the tenancy and evict Amanda Woods (the 'Tenant') because:

- the Landlord in good faith requires possession of the rental unit for the purpose of residential occupation for at least one year.

This application was resolved by order LTB-L-036528-22 issued on April 6, 2023. On April 13, 2023, the Tenant requested a review of the order and that the order be stayed until the request to review the order is resolved. The Tenant alleged that they were not reasonably able to participate in the proceeding.

On April 14, 2023, interim order LTB-L-036528-22-RV-IN was issued, staying the order issued on April 6, 2023.

The application was heard in by videoconference on May 3, 2023. The Landlord and the Tenant attended the hearing. The Tenant spoke with Duty Counsel prior to the hearing. The matter was resolved by order LTB-L-036528-22-RV issued on May 18, 2023.

On May 18, 2023 the Tenant requested a review of the May 18, 2023 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. Rule 26.18 of the Board's Rules of Procedure do not permit a party to request a further review of an order, or a review of a review order when they were the requesting party in the initial review. I find, however, that in the circumstances it is appropriate to waive Rule 26.18 and address the issues the Tenant raises in this second review request.
2. I have listened to the hearing recording and reviewed the Board's application record. 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.
3. The Tenant disagrees with the review Board Member's decision to deny the Tenant's request to review the April 6, 2023 order. The Tenant submits that the review Member erred by dismissing the Tenant's submission that she was not reasonably able to attend and participate in the March 6, 2023 hearing.
4. In the second review request, the Tenant claims that the order contains a serious error as she was denied natural justice. The Tenant asserts that she was permitted 5 minutes to make her case and the adjudicator interrupted her several times during the 5 minutes. I disagree. The hearing recording is inconsistent with the Tenant's description of the proceeding.
5. The hearing recording confirms that the Tenant exercised her right to participate in the proceedings. For example, she led evidence, provided submissions, cross examined the Landlord's testimony, asked and answered questions. The Tenant's testimony far exceeded 5 minutes. I note, the presiding Member, on more than one occasion, asked the Tenant if she had anything further to present and the Tenant responded, "I don't think so".
6. I also note, the hearing recording confirms the presiding Member engaged the Tenant in conversation about her circumstances and the lifting of the stay. At all times, the Tenant participated at the hearing and at no time was the Tenant rushed to complete her testimony.
7. The recording also shows that the presiding Member was required to occasionally interrupt both the Tenant and the Landlord. I find, however, that the Member's actions were consistent with the Board's duty to adopt an expeditious process to resolve disputes. The Member's instructions kept the parties focussed on relevant matters and promoted an orderly hearing.
8. The May 18, 2023 review order sets out in detail how and why the review Member found that the Tenant's testimony was not credible. The review order cites some of the relevant evidence that guided the Member's determinations. Paragraph 6, for example, recites the Tenant's testimony that she received the Board's notice of hearing by mail around March

10, 2023. In contrast to the Tenant's testimony, the Tenant's request to review the order states that she first became aware of the hearing when she received the order on April 6, 2023. The inconsistency with the Tenant's statements led the presiding Member to conclude that the Tenant is not a credible witness.

9. By identifying and analyzing relevant evidence adduced at the May 3, 2023 review hearing, the May 18, 2023 review order explains how and why the review Member determined that the Tenant's explanation for failing to attend the March 6, 2023 hearing was not credible. The review order therefore contains sufficient reasons and is accordingly an adequate order. Although the Tenant disagrees with the review Member's finding of credibility, the Member was in the best position to assess credibility. Since the May 18, 2023 review order shows that there was a rational basis for the review Member's finding, the Member's assessment of the Tenant's credibility is entitled to deference.
10. The Tenant has therefore not shown that a serious error may exist in the May 18, 2023 review order, or that a serious error may have occurred at the May 3, 2023 review hearing. The request to review the review order will therefore be denied.

It is ordered that:

1. The request to review order LTB-L-036528-22-RV issued on May 18, 2023 is denied. The order is confirmed and remains unchanged.

May 19, 2023

Date Issued

Dana Wren

Member, Landlord and Tenant Board

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.