



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

Citation: Xiaofeng Wang v Michael Kolanjian, 2023 ONLTB 39855

Date: 2023-05-19 **File Number:**
LTB-L-053430-22-RV

In the matter of: 1977 SCULLY WAY
Ottawa ON K4A4H2

Between: Xiaofeng Wang Landlord
Yudong Wang

And

Hossep Kolanjian Tenant
Jessica Kolanjian
Michael Kolanjian
Nbuha Kolanjian
Tony Kolanjian

Review Order

Xiaofeng Wang and Yudong Wang (the 'Landlord') applied for an order to terminate the tenancy and evict Hossep Kolanjian, Jessica Kolanjian, Michael Kolanjian, Nbuha Kolanjian and Tony Kolanjian (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 heard on April 5, 2023 and resolved by order LTB-L-053430-22 issued on May 12, 2023. The order dismissed the Landlord's application.

On May 16, 2023 the Landlord requested a review of the order.

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

Determinations:

1. I have listened to the April 5, 2023 hearing recording and have reviewed the Board's record. On the basis of the submissions made in the request, I am not satisfied that there is a serious error in the hearing order, or that a serious error occurred in the proceedings or in the presiding Member's exercise of discretion.
2. The order issued on May 12, 2023 dismisses the Landlord's application as the presiding Member was not satisfied that the N12 notice was served in good-faith or that the

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Landlord's daughter genuinely intended to reside in the rental unit. In particular, the order makes reference to the fact that the Landlord had admitted to previously serving the Tenants with other notices of termination (N5 and N8) for the purpose of negotiating an increase in rent to match the current market rate.

3. The Landlord argues that the presiding Member failed to consider the Landlord's evidence, the genuine intention of the Landlord's daughter and that the Landlord's did not know that their daughter required the rental unit until after the discussions respecting an increase in rent.
4. The hearing recording and the Board order confirm that the presiding Member considered the evidence by both parties and provided sufficient reasons for her findings. The presiding Member correctly considered the pattern of events that led up to the serving of the N12 notice to make a finding on the good-faith intention of the Landlord and their daughter. In *Fava v. Harrison*, [2014] O.J No. 2678 ONSC 3352 the Divisional Court found that the Board can consider the conduct and motives of the Landlord to draw inferences as to whether the Landlord desires, in good faith to occupy the property. Therefore, it was not an error of the presiding Member to consider the evidence pertaining to the service of prior notices of termination or the Landlord's request to negotiate a substantial rent increase prior to serving the N12 notice.
5. The presiding Member's findings of fact are entitled to considerable deference. I will not interfere with the assessment of the evidence by the Member of first instance, who had the opportunity of hearing the evidence in its totality.
6. Although the Landlords disagree with the May 12, 2023 Board order, the Board's review process is not an opportunity for a party to re-argue a matter that has been finally determined. In the absence of a demonstrable error in the order, or that a serious error occurred in the proceedings, the request to review the order must be denied.

It is ordered that:

1. The request to review order LTB-L-053430-22 issued on May 12, 2023 is denied. The order is confirmed and remains unchanged.

May 18, 2023

Date Issued

Fabio Quattrociochi

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.

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