



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

**Citation:** DD Acquisitions v Murray, 2023 ONLTB 39743

**Date:** 2023-05-18

**File Number:** LTB-L-045523-22-RV

**In the matter of:** 0409, 1065 EGLINTON AVE W TORONTO  
ON M6C2E1

**Between:** DD Acquisitions Landlord

**And**

Chantelle Murray Tenant

### Review Order

DD Acquisitions (the 'Landlord') applied for an order to terminate the tenancy and evict Chantelle Murray (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by video conference on March 13, 2023 and resolved by order LTB-L-045523-22 issued on March 28, 2023. The Tenant did not attend the hearing when the matter was called at 9:49 am on March 13, 2023.

On April 4, 2023, the Tenant filed a request to review claiming she was not reasonable able to participate in the proceeding as she did not receive a notice of hearing.

A review interim order was issued on April 4, 2023 granting the Tenant's request to review and staying the March 28, 2023 order until the request to review the order was resolved.

The review hearing was held by video conference on April 26, 2023 and resolved by order LTB-L-045523-22-RV issued on May 9, 2023. Only the Landlord's legal representative attended the hearing. The Tenant did not attend the hearing.

On May 17, 2023, the Tenant requested a review of the order issued May 9, 2023 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. In the request to review, the Tenant claims that she was not reasonably able to participate at the hearing as she “misunderstood the date of the meeting, and as a result, I wrote down the wrong date in my calendar”.
3. The Tenant does not dispute receiving the notice of hearing for the April 26, 2023 hearing. Rather, the Tenant asserts that she mis-diarized the date in her calendar.
4. In the circumstances, I find the Tenant’s claim that she improperly recorded the hearing date in her calendar is not reasonable.
5. In *King-Winton v. Doverhold Investments Ltd.*, 2008 CanLII 60708 (‘King-Winton’), the Divisional Court held that “being reasonably able to participate in the proceeding must be interpreted broadly, natural justice requires no less.” Another consideration in *King-Winton* was that the tenant in that case had demonstrated an intention to pursue the proceedings.
6. In my view, it is a basic tenet of natural justice that a party to a proceeding be given an opportunity to participate in it. If a party has not been given a reasonable opportunity to participate in a proceeding that results in an order against that party’s interests, natural justice demands that the party be given this opportunity. This injustice is all the greater if it results in a tenant’s eviction, especially where the only material prejudice to the landlord in recommencing the proceedings is that the original matter will be heard on its merits. It is the possibility of this injustice that necessitates a broad interpretation of the grounds of being not reasonably able to participate in the proceedings.
7. However, what distinguishes *King-Winton* from the present case is that in *King-Winton*, the tenant’s mistaken belief in the incorrect hearing date is based on the Board’s own record which shows the mistaken date had been discussed, then scratched out with a new date entered. This may have caused reasonable confusion for the tenant who then missed the hearing. There was a rational, reasonable basis for the tenant’s mistaken belief that the Board hearing was on September 28 instead of on September 21.
8. In the present case, there is no reasonable basis for the mistake other than the Tenant mis-diarized the hearing date. I note, the Tenant missed the first hearing and requested a review of the order on the same grounds. In my view, there must be a reasonable basis for

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the error that prevents a party from attending a hearing, which I do not find is the case here.

9. Based on the pleadings in the review request, I conclude that the Tenant has not established that she was not reasonably able to participate in the April 26, 2023 hearing. The request to review the May 9, 2023 order must therefore be denied.

**It is ordered that:**

1. The request to review order LTB-L-045523-22 issued on May 9, 2023 is denied. The order is confirmed and remains unchanged.

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**May 18, 2023**  
**Date Issued**

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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.

