



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

Citation: Jarata, Retuta, Retuta and Gail v Black, 2023 ONLTB 37103

Date: 2023-05-05 **File Number:**
LTB-L-044193-22-RV

In the matter of: Basement, 310 TIMBERBANK BLVD SCARBOROUGH
ON M1W2J4

Between: Joven Jarata Landlords
Mary Joy Retuta
Tony Flor Rico Retuta
Vida Gail

And

Kevin Black Tenant

Review Order

Joven Jarata, Mary Joy Retuta, Tony Flor Rico Retuta and Vida Gail (the 'Landlords') applied for an order to terminate the tenancy and evict Kevin Black (the 'Tenant') because the Landlord Vida Gail in good faith requires possession of the rental unit for the purpose of residential occupation for at least one year.

The Landlords also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by video conference on March 22, 2023. The Tenant did not attend the hearing.

The Landlords' application was resolved by order LTB-L-044193-22, issued on April 4, 2023.

On May 4, 2023, the Tenant 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 that the Tenant was not reasonably able to participate in the proceeding.

2. The Board mailed the notice of hearing to the Tenant on February 27, 2023. The Board is deemed to have given the document to the Tenant on March 4, 2023, pursuant to subsection 191(3) of the *Residential Tenancies Act, 2006* (the ‘Act’).

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Tribunals Ontario
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Commission de la location immobilière

3. Notwithstanding subsection 191(3) of the Act, the Tenant writes in the review request that he received the notice of hearing on March 17, 2023. The Tenant submits that “the extremely short time frame between the notice of hearing and the hearing date” prevented the Tenant from “rearranging my schedule to ensure my full participation in the hearing process”.
4. I find that the Tenant’s belief as expressed in the review request, that the Landlord intercepted the notice of hearing for a period of time, is speculative. The Tenant has not established that the Landlord may have abused the Board’s process by withholding the notice of hearing for several days.
5. The Divisional Court has affirmed that, except in exigent circumstances, parties to an application must follow the Board’s process to reschedule or adjourn a Board hearing: *Lacroix v. Central-McKinlay International Ltd.*, 2022 ONSC 2807 (Div. Ct.) (CanLII); *Wang v. Oloo*, 2023 ONSC 1028 (Div. Ct.) (CanLII). Here, the application record shows that the Tenant did not submit a request to reschedule the March 22, 2023 hearing before the hearing date. The Tenant also did not join the video conference proceedings, either in person or by agent/representative, on the hearing date to request an adjournment.
6. Although I am mindful of the personal circumstances the Tenant describes in the review request – the Tenant is a Black single parent, who is enrolled in studies and anticipates affordability issues if required to search for new accommodation – I find that these are not “Exigent circumstances” that “may prevent a party from following the LTB’s prescribed process for obtaining an adjournment before or at the hearing.” [*Wang v. Oloo*, at paragraph 9.]
7. Following the Divisional Court’s reasons in *Lacroix v. Central-McKinlay International Ltd.* and *Wang v. Oloo*, I conclude that the Tenant has not sufficiently explained why he was not reasonably able to participate in the March 22, 2023 hearing. The request to review the April 4, 2023 order must accordingly be denied.

It is ordered that:

1. The request to review order LTB-L-044193-22, issued on April 4, 2023, is denied. The order is confirmed and remains unchanged.

May 5, 2023

Date Issued**Harry Cho**

Vice Chair, 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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