



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

Citation: Feng Guo and Hongli Li v Sangeeta R Rajwani, 2023 ONLTB 35579

Date: 2023-05-01 **File Number:**
LTB-L-053739-22-RV

In the matter of: UNIT 820, 99 EAGLE ROCK WAY MAPLE
ON L6A5A7

Between: Feng Guo Landlord
Hongli Li

And

Sangeeta R Rajwani Tenant

Review Order

Feng Guo and Hongli Li (the 'Landlords') applied for an order to terminate the tenancy and evict Sangeeta R Rajwani (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-053739-22, issued on April 6, 2023.

On April 27, 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 there is a serious error in the order or that a serious error occurred in the proceedings.
2. The Tenant submits a miscarriage of justice occurred because the Tenant's legal representative provided inadequate representation at the March 30, 2023 hearing. The Tenant's submission that their legal representative was distracted during the hearing, however, does not describe a sufficient lack of competence to warrant a review of the April 6, 2023 order.
3. The April 6, 2023 order shows that the Tenant exercised the right to respond to the Landlord's application. The Tenant's witness (spouse) Rajesh Rajwani ('RR's) gave testimony that he paid the Landlord cash in the amounts of \$10,000.00 and \$6,800.00 on December 3, 2022 and January 21, 2023, respectively. The presiding Board adjudicator

considered the Tenant's evidence, including evidence of bank transfers unrelated to the purported cash payments. The adjudicator also considered the absence of any written communication, receipt or other item to support RR's description of large cash payments.

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Commission de la location immobilière

4. I find that the April 6, 2023 order adequately explains how and why the presiding Board adjudicator determined that RR did not pay \$16,800.00 in cash to the Landlord. Although the Tenant disagrees with the adjudicator's conclusion, the order demonstrates that there were reasonable grounds for the adjudicator to determine that RR's testimony was not reliable. The Tenants did not submit supporting evidence of the alleged cash payments to the Landlord. They did, however, submit reliable evidence of other payments to the Landlord by bank transfer. In the circumstances, the adjudicator was entitled to draw a negative inference from the Tenant's failure to introduce any evidence to corroborate RR's testimony. Accordingly, the adjudicator's finding of credibility is entitled to deference.
5. Similarly, although the Tenant disagrees with the Board adjudicator's ruling with respect to service of the Form N4 notice of termination, I find that the ruling is entitled to deference. The adjudicator correctly cites and applies subsection 191(3) of the *Residential Tenancies Act, 2006* (the 'Act') when finding that the Board gave its notice of hearing to the Tenant on August 30, 2022.
6. The Board did not err by issuing its order on April 6, 2023, seven days after the March 30, 2023 hearing date.
7. If the Tenant did not receive a copy of the Board's order directly from the Board, I find that this does not represent a reviewable error. The Tenant agrees in the review request that they received the April 6, 2023 order in time to request this review. Moreover, the Board mailed a copy of the April 6, 2023 order to the Tenant's legal representative on April 6, 2023.
8. The Tenant has therefore not shown that a serious error may exist in the April 6, 2023 order, or that a serious error may have occurred in the proceedings. The request to review the order must accordingly be denied.,

It is ordered that:

1. The request to review order LTB-L-053739-22, issued on April 6, 2023, is denied. The order is confirmed and remains unchanged.

May 1, 2023

Date Issued

Harry Cho

Vice Chair, Landlord and Tenant Board

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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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