



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

Citation: SALIM v DHINARA AND SINGH, 2023 ONLTB 33926

Date: 2023-04-24 **File Number:**
LTB-L-030768-22-RV

In the matter of: 580 MURRAY MEDOWS PLACE MILTON
ON L9T8L7

Between: SHAHAN SALIM Landlord

And

AMITA DHINARA Tenants GURPREET SINGH

Review Order

Shahan Salim (the 'Landlord') applied for an order requiring Gurpreet Singh and Amita Dhinara (the 'Former Tenants') to pay the rent and daily compensation that the Former Tenants owe.

This application was resolved by order LTB-L-030768-22 issued on March 23, 2023.

On April 21, 2023, the Tenants requested a review of the order and that the order be stayed until the request to review the order is resolved.

A preliminary review of the Tenants' 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. The Tenants claim that the March 23, 2023 order contains a serious error. Specifically, the Tenants assert that the presiding Member failed to consider s.16 of the *Residential Tenancies Act, 2006* (the 'Act') and failed to consider that the Landlord arbitrarily and unreasonably refused to consent to an assignment of a rental unit to a potential assignee.

3. The hearing was held on March 9, 2023 where the Landlord, his legal representative and the former Tenant Gurpreet Singh, representing both former Tenants, attended the hearing.

File Number: LTB-L-030768-22-RV

4. I have listened to the March 9, 2023 hearing recording and I have reviewed the Board's application record. The hearing recording confirms that the second named Tenant actively participated at the hearing.
5. The hearing recording confirms that that Tenant was aware of the issues to be determined at the hearing, and the Tenant willingly exercised his right to participate in the hearing. The Tenant, for example, introduced evidence, led submissions, referred to the Act, asked and answered questions. Throughout the entirety of the hearing, the Tenant did not raise s.16 of the Act nor introduce evidence with respect to mitigation of loss. I note, the order is silent with respect to s.16.
6. Based on the submissions made in the Tenants' request, the Tenant participated at the hearing and had ample opportunity to make submissions on s.16 and the efforts made by the Landlord to mitigate his loss once the tenancy terminated. The original order was based on submissions made at the time of the hearing and the order reflects this accordingly.
7. The Board's Interpretation Guideline 8 discusses the situation whereby a party seeks to adduce new evidence on review and states: "The review will be dismissed unless the LTB is satisfied the new evidence could not have been produced at the original hearing...." In this case, the Tenants could have known about s.16 as it relates to this matter. The Tenant often made reference to various sections of the Act and could have pled this at the time of the hearing. In my view, it is the responsibility of each party to make submissions to defend their position. I am therefore not satisfied that the new evidence could not have been produced at the original hearing.
8. The balance of the review essentially pleads the result is unfair. The Tenants take the position that the presiding Member failed to properly assess the circumstances surrounding the Tenants' request to the assignment of the rental unit to a potential assignee.
9. The hearing recording does not support the Tenants' belief that the presiding Member failed to consider the circumstance with respect to the potential assignment of the rental unit. The parties provided lengthy submissions on this topic and the Member clearly advised the parties that he was reserving on his decision and would consult with LTB legal advisors for additional comment and the order would reflect the final decision.
10. The hearing recording and application record show that there was sufficient evidence for the presiding Member to find, on a balance of probabilities, that the Landlord did not breach s.95 of the Act when he refused to consent to the Tenants proposed assignees.
11. The request to review seeks to revisit the presiding Member's decision. While the Tenants clearly disagree with the decision, the purpose of the review process is not to provide

parties with an opportunity to relitigate the issues. I would not interfere with the assessment of the evidence by the presiding Member, who had the opportunity of hearing the evidence in its totality.

12. The Tenants have therefore not demonstrated that a serious error may exist in the March 23, 2023 order, or that a serious error may have occurred in the proceedings. The request to review the order must accordingly be denied.

File Number: LTB-L-030768-22-RV

It is ordered that:

1. The request to review order LTB-L-030768-22 issued on March 23, 2023 is denied. The order is confirmed and remains unchanged.

April 24, 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.

