



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

**Citation:** Duplex Holdings v Gravell, 2023 ONLTB 31538

**Date:** 2023-04-20

**File Number:** LTB-L-014518-22-RV

**In the matter of:** 24, 485 DUPLEX AVE TORONTO  
ON M4R1V5

**Between:** Duplex Holdings Landlord  
**And**

Jennifer Lee Gravell Tenant

### Review Order

Duplex Holdings (the 'Landlord') applied for an order to terminate the tenancy and evict Jennifer Lee Gravell (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by way of videoconference on September 26, 2022 and February 8, 2023. The application was resolved by order LTB-L-014518-22 issued on February 16, 2023

On March 8, 2023, the Tenant requested a review of the order and that the order be stayed until the request to review the order is resolved.

On March 10, 2023 interim order LTB-L-014518-22-RV-IN was issued, staying the order issued on February 16, 2023.

This request for review was heard by videoconference on March 30, 2023. The Landlord's legal representative Elaine Page and the Tenant attended the hearing. Hugh Evans signed into the videoconference as representative and/or agent for the Tenant, but did not participate in the hearing.

### Determinations:

#### Adjournment request:

1. The hearing block was scheduled to start at 9:00am and to conclude at 12:30pm. The matter was called at approximately 10:30am. The Tenant requested an adjournment.



2. The Tenant testified that her legal representative, Mr. Evans had disconnected the hearing room at approximately 10:25am as he had another Court proceeding to attend at 11:00am. For the reasons below, I denied the adjournment request and the review proceeded to be heard on its merits.
3. Although the Tenant referred to Mr. Evans as her “lawyer”, both the Tenant and Mr. Evans confirmed during the sign in process that although a licensed representative under the Law

out of Society of Ontario (LSO), that Mr. Evans had not been retained by the Tenant, but rather was a friend who was assisting the Tenant.

4. Further, the Board’s records indicate that the parties were initially before the Board on September 26, 2022. This hearing was adjourned at the Tenant’s request to obtain legal representation. The presiding Member from the September 26, 2022 hearing issued interim order LTB-L-014518-22-IN on October 26, 2022. The interim order stated the return hearing date was peremptory on the Tenant.
5. I find that it would be unfair to the Landlord to adjourn the review hearing. The review was the Tenant’s request, and the original merits hearing was also adjourned at the Tenant’s request and was made peremptory on the Tenant to attend with legal representation. Neither the Tenant nor their representative requested an adjournment at the start of the hearing block. Rather, the Tenant’s representative and/or agent simply logged out of the videoconference without requesting that the matter be stood down momentarily.
6. Section 183 of the *Residential Tenancies Act, 2006* (Act) states:  

**183** The Board shall adopt the most expeditious method of determining the questions arising in a proceeding that affords to all persons directly affected by the proceeding an adequate opportunity to know the issues and be heard on the matter.
7. As stated above, the matter was previously adjourned at the Tenant’s request approximately six months prior to the review hearing and the Board issued an interim order to the parties stating that the adjournment was peremptory on the Tenant. I find it would be absurd to allow responding parties or representatives to attend and prioritize other events over Board proceedings that have previously been adjourned at their request and previously made peremptory on the party who requested the initial adjournment. To allow this would undermine section 183 of the Act as stated above.
8. As such, the Tenant’s request to adjourn the matter was denied.

Review Request:



9. The Tenant's request for review alleges that the Tenant was not reasonably able to participate in the hearing on February 8, 2023. In the Tenant's review request, the Tenant alleges that she did not receive notice of hearing from the Board and that her representative and/or agent only received notice one day prior to the hearing. On the February 8<sup>th</sup> hearing, neither the Tenant nor their representative attended.
10. The Board's records show that notice of hearing was mailed to the Tenant on January 26, 2023 and not returned to the Board from Canada Post. At the hearing the Tenant testified that she does not check her mailbox due to security concerns in the common areas of the residential complex. The Tenant stated that she typically has a family member or friend check her mail when visiting and did not provide the Board with any specific dates from January 26, 2023 to the hearing date when she had a family member or friend check her mail.
11. The Board's records do not show any indication that notice of hearing was sent to the Tenant's representative and/or agent. However, the parties agreed that the Landlord's representative forwarded the Landlord's evidence to Mr. Evans on February 3, 2023. The Tenant stated that Mr. Evans did not inform her of the hearing until the day following the hearing date and chose not to attend the hearing due to short notice.
12. Based on the evidence and submissions of the parties I am not satisfied that the Tenant was not reasonably able to participate in the hearing on February 8, 2023. The courts have enjoined that the phrase "not reasonably able to participate" should be interpreted broadly to ensure natural justice and, where a party shows that they genuinely intended to participate in a hearing but were prevented from so doing, then they should be entitled to a hearing through the review process.
13. In this case, I find that the Tenant's nonattendance at the hearing was due to a lack due diligence and that the Tenant was reasonably able to participate in the hearing either by way of self-representation or through a representative and/or agent, who simply decided not to attend.
14. As stated by the Court in *Q Res IV Operating CP Inc. v. Berezovs'ka 2017 ONSC 5541* "If parties are not diligent in dealing with legal proceedings, then they cannot demand that a Tribunal waste its resources by rehearing matters a second time. To allow this would undermine the ability of the administration of justice to deliver timely cost-effective and final orders"
15. The Tenant had previously received notice of hearing by the Board for the September 26, 2022 hearing via Canada Post. The matter was adjourned at the Tenant's request. As such, the Tenant ought to have know that a new notice of hearing was going to be served. Despite this, the Tenant testified that she made no efforts to check her mail on a regular basis nor did she make a request to the Board to have the new notice of hearing served by an alternate method (email). The Tenants testimony about not checking her mail due to



security concerns in the residential complex was not plead on her request to review, nor was there sufficient evidence provided at the hearing to support this claim.

16. I further note that the Tenant themselves confirmed that their representative and/or agent Mr. Evans received the Landlord's disclosure package prior to the hearing and chose not to attend the hearing or inform the Tenant of the hearing due to a short notice.
17. For the reasons set out above I am not satisfied that the Tenant was not reasonably able to participate in the hearing. As such, the request for review is denied and the order issued on February 16, 2023 will remain unchanged.
18. This Order contains all the reasons for this matter. No further reasons will issue.

**It is ordered that:**

1. The request to review order LTB-L-014518-22 issued on February 16, 2023 is denied. The order is confirmed and remains unchanged.
2. The interim order issued on March 10, 2023, is cancelled. The stay of order LTB-L014518-22 is lifted immediately.

**April 20, 2023**

**Date Issued**

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**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.

