



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

Citation: Jung v Anand, 2023 ONLTB 32921

Date: 2023-04-17

File Number: LTB-L-037710-22-RV

In the matter of: 3704, 180 UNIVERSITY AVE
TORONTO ON M5H0A2

Between: Jong Kon also as known as Jongkon Jung Landlord

And

Arjun Anand Tenant

Review Order

Jong Kon also as known as Jongkon Jung (the 'Landlord') applied for an order to terminate the tenancy and evict Arjun Anand (the 'Tenant') because:

- the Landlord has entered into an agreement of purchase and sale of the rental unit and the purchaser in good faith requires possession of the rental unit for the purpose of residential occupation.

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

This application was resolved by order LTB-L-037710-22 issued on March 17, 2023.

On April 14, 2023, the Tenant 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 Tenant's review request was completed without a hearing.

Determinations and Reasons:

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. This application is about how the tenancy came to an end. The Landlord served on the Tenant an N12 notice of termination because the Landlord has entered into an agreement of purchase and sale of the rental unit and the purchaser in good faith requires possession of the rental unit for the purpose of residential occupation. I note, the Landlord, Landlord's legal representative, Landlord's witness, the Tenant and Tenant's brother attended the hearing.

3. In the Tenant's review request, the Tenant claims serious error in the original order, specifically, that at the hearing, the Landlord produced new evidence that was not provided prior to the hearing. The Tenant claims the document was lengthy and the Tenant was nervous and therefore it should not have been accepted.
4. I have listened to the hearing recording and reviewed the Board record. On the date of the hearing, the Landlord requested to submit, as new evidence, Minutes of Settlement. At the March 8, 2023 hearing, the presiding Member stood the matter down to allow the Tenant time to review the new evidence and make submissions. The Tenant did not request an adjournment.
5. In my view, the Tenant participated at the hearing and had ample opportunity to review and question the new evidence. The original order was based on submissions made at the hearing and the order reflects this accordingly.
6. The presiding Member's finding is based on the original agreement of purchase and sale, the Minutes of Settlement and the oral testimony of both the Landlord and the Landlord's witness (the purchaser), who testified that they have not abandoned the original agreement of purchase and sale and are awaiting vacant possession of the rental unit.
7. The review essentially pleads the result is unfair. The request does not identify any serious errors made in the hearing order. No evidence was before the Board in support of the proposition that the Landlord served the Tenant with the N12 notice with improper intention. The Tenant, at the original hearing, had every opportunity to make submissions and defend their position.
8. The request to review seeks to revisit the presiding Member's decision. While the Tenant clearly disagrees 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.
9. Given all of the above, 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. As a result, the request for review must be denied.

It is ordered that:

1. The request to review order LTB-L-037710-22 issued on March 17, 2023 is denied. The order is confirmed and remains unchanged.

April 17, 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.