



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

**Citation:** NA-SH INVESTMENTS (LONDON) LIMITED v Heddington, 2023 ONLTB 30861

**Date:** 2023-04-14

**File Number:** LTB-L-026850-22-RV

**In the matter of:** 106, 652 HALE ST  
LONDON ON N5W1H4

**Between:** NA-SH INVESTMENTS (LONDON) LIMITED Landlord

**And**

Christyl Cartier Tenants  
Daryl Heddington

### Review Order

NA-SH INVESTMENTS (LONDON) LIMITED (the 'Landlord') applied for an order to terminate the tenancy and evict Christyl Cartier and Daryl Heddington (the 'Tenants') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-026850-22 issued on February 10, 2023. The hearing took place by videoconference.

On March 4, 2023, the Tenants requested a review of the order and that the order be stayed until the request to review the order is resolved.

On March 6, 2023 interim order LTB-L-026850-22-RV-IN was issued, staying the order issued on February 10, 2023.

The Tenants' request to review was heard in by videoconference on March 27, 2023. The Landlord's Agent, Coleen English, the Landlord's Legal Representative, Carmen Dawdy, and the Tenants attended the hearing. The Tenants spoke with Duty Counsel prior to the hearing.

### Determinations:

1. For the reasons given at the hearing, I was satisfied that the Tenants were not reasonably able to participate in the proceedings that took place on January 16, 2023. Accordingly, the Tenants' request to review was granted and the Landlord's application was heard *de novo*.
2. The Tenants do not dispute receiving the Notice of Hearing for the hearing on January 16, 2023. The Tenants explained that they made an honest mistake and mixed up the hearing date. I was satisfied by the Tenants explanation.
3. The facts of this case are similar to *King-Winton v. Doverhold Investments Ltd.*, 2008 CanLII 60708 (*King-Winton*). In that case the Divisional Court held, at paragraph 3, that



“[b]eing reasonably able to participate in the proceeding must be interpreted broadly, natural justice requires no less.”

4. Similarly, in this case the Tenants never had an opportunity to be heard. They are entitled to a hearing. The Tenants never delayed in pursuing their right to a hearing.

### L1 Application

5. The Tenants are in possession of the rental unit.
6. As of January 1, 2023, the lawful monthly rent is \$794.38.
7. The Landlord is holding a last month's rent deposit of \$775.00.
8. The Tenants have paid \$3,326.00 since the application was filed.
9. It was undisputed that the amount outstanding to March 31, 2023, inclusive of rent arrears (\$6,032.14), and costs (\$186.00), is \$6,218.14.
10. I have considered all of the disclosed circumstances in accordance with subsection 83 of the *Residential Tenancies Act, 2006* (RTA), including the impact of COVID-19 on the parties and whether the Landlord attempted to negotiate a repayment agreement with the Tenant, and find that it would not be unfair to grant relief from eviction subject to the condition(s) set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.
11. I have considered the Tenants finances and precarious employment over the past year. I have also considered the general rental housing market and the hardships the Tenants face in finding affordable housing. The Tenants proposed a reasonable payment plan that would have the arrears paid within 5 months.
12. While the Landlord points to the significant amount owing and their belief that the Tenants will not abide by the payment plan, given the remedial nature of the RTA and the Tenant's reasonable payment plan, I find that granting relief from eviction subject to the conditions below is reasonable in the circumstances.
13. The Landlords request for the sheriff's fee is denied. In my view, the RTA does not provide authority to award the Landlord the sheriff's fee in the circumstances of this case.

### **It is ordered that:**

1. The interim order issued on March 6, 2023 is cancelled.
2. The request to review order LTB-L-026850-22 issued on February 10, 2023 is granted. The order is cancelled and replaced by the following.
3. The Tenants shall pay to the Landlord \$6,218.14, which represents the arrears of rent (\$6,032.14), and costs (\$186.00) outstanding for the period ending March 31, 2023.
4. The Landlord's application for eviction of the Tenants is denied on the condition that:
  - (a) The Tenants shall make the following payments to the Landlord in respect of the monies owing under paragraph 3 of this order:



<b>Date Payment Due</b>	<b>Amount of Payment</b>
March 31, 2023	\$2,000.00 (costs and arrears)
April 14, 2023	\$500.00 (arrears)
April 28, 2023	\$500.00 (arrears)
May 12, 2023	\$500.00 (arrears)
May 26, 2023	\$500.00 (arrears)
June 9, 2023	\$500.00 (arrears)
June 23, 2023	\$500.00 (arrears)
July 7, 2023	\$500.00 (arrears)
July 21, 2023	\$500.00 (arrears)
August 4, 2023	\$218.14 (arrears)

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(b) The Tenants shall also pay the Landlord the rent for the months of April 2023 up to and including August 2023 in full, on or before the first day of each corresponding month.

5. If the Tenants fail to make any of the payments in accordance with paragraph 4, and by the dates required, then:

(a) The Landlord may apply under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') for an order terminating the tenancy and evicting the Tenant, and for the payment of any new arrears of rent and NSF charges not already ordered under paragraph 3 of this order. The Landlord must make the application within 30 days of a breach of a condition set out in paragraph 4 of this order.

(b) The balance owing under paragraph 3 of this order shall become payable on the day following the date of default. The monies owing shall bear interest at the post-judgment interest rate determined under subsection 207(7) of the Act.

**April 14, 2023**  
**Date Issued**

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Khalid Akram

Member, Landlord and Tenant Board



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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.