



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

Citation: B.P.M. (MILL ST.) DEVELOPMENTS LIMITED v POULIN, 2023 ONLTB 28778

Date: 2023-04-05

File Number: LTB-L-053316-22-RV

In the matter of: 706, 62 PARK AVENUE
GEORGETOWN ONTARIO L7G4Z1

Between: B.P.M. (MILL ST.) DEVELOPMENTS LIMITED Landlord

And

NADIA POULIN Tenant

Review Order

B.P.M. (MILL ST.) DEVELOPMENTS LIMITED (the 'Landlord') applied for an order to terminate the tenancy and evict NADIA POULIN (the 'Tenant') because the Tenant failed to meet a condition specified in the order issued by the Board on May 17, 2022.

On September 13, 2022 the Landlord applied for an order to terminate the tenancy because the Tenant did not meet a condition specified in the order issued on May 17, 2022 with respect to application SOL-27099-SA.

The application was resolved by order LTB-L053316-22 issued on December 9, 2022.

On December 9, 2022, the Tenant filed a motion to set aside the order issued on December 9, 2022.

The motion was heard by video conference on January 19, 2023 and resolved by order LTB-L053316-22 issued January 25, 2023.

On February 13, 2023, the Landlord requested a review of the order.

On February 15, 2023, interim order LTB-L-053316-22-RV-IN was issued.

This review hearing was heard by videoconference on March 13, 2023.

The Landlord Lori Leveck, Landlord's representative Martin Zarnett and the Tenant attended the hearing.

2023 ONLTB 28778 (CanLI)



Determinations and Reasons:

The Request to Review:

1. The Landlord takes the position that the January 25, 2023 order contains a serious error in fact and in law when the Member failed to provide any reasons as to why, in light of the ongoing breach of payment at the time of the hearing, the December 9, 2023 order was set aside.
2. The Landlord asserts that previous order failed to provide any reasons or consider whether or not having regard to all the circumstances why it would be unfair to set aside the December 9, 2022 order. The Landlord claims the Board failed to consider any of the Landlord's circumstances, contrary to s.78(11) of the Act.
3. The Landlord asserts that even though evidence was provided with respect to the Tenant's breach of payment for December 2022 and January 2023 and the default continued to the date of the hearing, the Board order failed to include reasons for granting the Tenant's motion and committed a serious error in law.
4. On the basis of the submissions made in the request, I am satisfied that there is a serious error in the order. The presiding Member failed to include reasons and details as to why the Tenant's motion was granted despite the fact that on the date of the hearing, the Tenant continued to be in default.
5. The Landlord relies on *Gray v. Director of the Ontario Disability Support Program*, 2002 CanLII 7805 (ON CA), where at paragraph 23, Chief Justice McMurtry stated:

"The duty to give reasons is only fulfilled if the reasons provided are adequate. What constitutes adequate reasons is a matter to be determined in light of the particular circumstances of each case. However, as a general rule, adequate reasons are those that serve the functions for which the duty to provide them was imposed.

...

The obligation to provide adequate reasons is not satisfied by merely reciting the submissions and evidence of the parties and stating a conclusion. Rather, the decision maker must set out its findings of fact and the principal evidence upon which those findings were based. The reasons must address the major points in issue. The reasoning process followed by the decision maker must be set out and must reflect consideration of the main relevant factors."

6. On the basis of the submission made in this request, I am satisfied that there was a serious error in the order when the Member failed to provide reasons for her decision. The Landlord's request for review was granted.
7. A new hearing was held for the Landlord's application.

The Tenant's Set-Aside Motion

8. On the date of the March 13, 2023 hearing, the Tenant did not dispute that she failed to pay the rent when due on September 1, 2022 and failed to meet her obligations when she



again failed to pay the rent on time in November, December 2022, January 2023. There is not dispute that the Tenant paid the rent on time for February and March 2023

9. This motion is brought pursuant to subsection 78(11) of the Act. As I am satisfied that the Tenant breached the order issued on May 17, 2022, the only issue before me is whether I am “satisfied, having regard to all the circumstances, that it would not be unfair to set aside the order”.
10. It was the testimony of the Tenant that during the time of the breach she was on sick leave and was not able to make the rent payments on time. The Tenant said she is now currently employed on a full time basis, her finances have stabilized, can afford to make the rent payments and said she will not default on future payments. The Tenant said she has been employed with the same employer for over 20 years and has job security.
11. The Tenant also said that she lives with her 2 minor children. She said that due to her previous circumstances that led to her late payments, she has poor credit and finding alternative housing has been a challenge.
12. Regarding the Landlord’s circumstances, they have become understandably frustrated with this tenancy and claim there is a history of persistently late payments. The Landlord takes the position that managing this tenancy has taken considerable time and resources. The Landlord has been before the Board for this tenancy now on four occasions and the prejudice to the Landlord is based on circumstances and not necessarily hardship.
13. Given all of the above and after considering all of the circumstances, I find that the Tenant’s motion should be granted. The Tenant’s arrears have been paid, she has been making efforts and has succeeded in paying her rent on time and does not foresee any future challenges with meeting her rent obligations. This is a long-term tenancy and the Tenant’s circumstances appear to have stabilized.
14. Based on the evidence before the Board and on a balance of probabilities, I am persuaded by the Tenant’s testimony that her circumstances have vastly improved and her ability to pay rent on time. I also considered the submissions of the Landlord but find it would not be unfair to grant relief. In my view, managing tenant relations, including issues related to rent and arrears, is a cost of doing business. However, in light of the Tenant’s history of late payments, I would remind the Tenant of their obligation to pay their rent to the Landlord in full and on time and I would encourage the Tenant to continue to make every effort to avoid not meeting their rent obligations.
15. This order contains all of the reasons for the decision within it. No further reasons shall be issued.

It is ordered that:

1. The request to review order LTB-L-053316-22 issued on January 25, 2023 is granted.
2. The previous order LTB-L-053316-22 issued January 25, 2023, is confirmed and remains unchanged.



April 5, 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.