



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

**Citation:** Marda Management Inc. v Bell, 2023 ONLTB 28817

**Date:** 2023-03-27

**File Number:** LTB-L-068616-22-SA-RV

**In the matter of:** 2, 977 Marentette Avenue  
Windsor Ontario N9A2A2

**Between:** Marda Management Inc. Landlord

**And**

Don Bell Tenant

### Review Order

Marda Management Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Don Bell (the 'Tenant') because he failed to meet a condition specified in order SWL-55885-21 issued on February 10, 2022.

This application was resolved by *ex parte* order LTB-L-068616-22 issued on January 27, 2023. The Tenant filed a motion to set aside the order.

The motion was heard by videoconference on February 28, 2023. Only the Landlord attended the motion hearing. As a result, the Tenant's motion was declared abandoned by order LTB-L-068616-22-SA, issued March 8, 2023.

On March 23, 2023, the Tenant requested a review of the March 8, 2023 order and that the order be stayed until the request to review the order is resolved.

A preliminary review of the request was completed without a hearing.

### Determinations:

1. The Tenant submits he was not reasonably able to participate at the February 28, 2023 motions hearing due to a thumb injury. The Tenant explains that he experienced excruciating pain that lasted almost 3 full days. On the day of the hearing, the Tenant says he had to go to the hospital to receive treatment.
2. On the basis of the submissions made in the request, I am not satisfied that the Tenant was not reasonably able to participate in the proceeding.
3. Firstly, the request does not provide any detail as to when the Tenant sustained the alleged thumb injury. Second, the Tenant's request does not provide any documentary evidence to substantiate the Tenant's claim. For example, the Tenant say she took pictures of his thumb, yet no pictures are submitted with the Tenant's request. Additionally,



the Tenant says he went to the hospital to receive treatment, yet no hospital discharge document or medical note is submitted with the Tenant's request. The request does not allege circumstances that prevented him from submitting these documents which otherwise should be reasonably available to the Tenant.

4. The Courts have affirmed that parties must be diligent in dealing with legal proceedings: *Q Res IV Operating GP Inc. v. Berezovs'ka*, 2017 ONSC 5541. The courts have also affirmed that the Board has a process for determining rescheduling and adjournment requests, which process parties are required to follow: *Wang v Oloo*, 2023 ONSC 1028; *Lacroix v. Central-McKinlay International Ltd.*, 2022 ONSC 2807.
5. In the present case, the Tenant failed to exercise due diligence or follow the Board's process. Even accepting the Tenant's submissions with respect to the injury to his thumb and the resulting pain he experienced, the request does not explain why the Tenant could not have sent a representative in his stead to explain the Tenant's circumstances and request an adjournment. The record does not indicate that the Tenant attempted to contact the Board to request a rescheduling of the motions hearing.
6. For the reasons above, I am not satisfied that the Tenant was not reasonably able to participate at the motion hearing. The Tenant's request to review the March 8, 2023 order must therefore be denied.

**It is ordered that:**

1. The request to review order LTB-L-068616-22-SA issued on March 8, 2023 is denied.
2. The order is confirmed and remains unchanged.

**March 27, 2023**  
**Date Issued**

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Khalid Akram  
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.