



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

**Citation:** Pearson Housing v Cassidy Walsh, 2023 ONLTB 26523

**Date:** 2023-03-22 **File Number:**  
LTB-L-001285-22-RV2

**In the matter of:** 1114 (Deluxe Room), 1100 KING ST W  
TORONTO ON M6K0C6

**Between:** Pearson Housing Landlord

**And**

Jonathan Cassidy Walsh Tenant

### Review Order

Pearson Housing (the 'Landlord') applied for an order to terminate the tenancy and evict Jonathan Cassidy Walsh (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-001285-22 issued on August 4, 2022. On this date only the Landlord's representative Alvin Chan attended the hearing.

On August 10, 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 August 11, 2022 interim order LTB-L-001285-22-RV-IN was issued, staying the order issued on August 4, 2022.

A review hearing was held on September 26, 2022. On this date only the Tenant attended. On October 26, 2022 review order LTB-L-001285-22-RV was issued granting the review and dismissing the Landlord's L1 application.

On January 24, 2023 the Landlord filed a request to extended time and requested a review of LTB-L-001285-22-RV.

On January 25, 2023 interim order LTB-L-001285-22-RV2-IN was issued, directing the Landlord's request to a review hearing.

This application was heard in by videoconference on February 13, 2023.

Only the Landlord's representative Alvin Chan attended the hearing.



As of 3:57 P.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

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## **Determinations:**

### Request-to-Review

1. It was submitted that the Landlord nor the representative Mr. Alvin Chan were served with a notice to attend the review hearing on September 26, 2022.
2. In review of the Board's record I was unable to find a certification record to confirm that a Notice of Hearing was indeed sent to the Landlord. The record shows Ibrahim Dogan, noted as the Landlord, being sent a Notice of Hearing package by email on August 26, 2022, but that is all.
3. As per the Board's record the Tenant was served the Notice of Hearing package by email on August 26, 2022 and mail on August 31, 2022.
4. In *Kathryn King-Winton v. Doverhold Investments 2008 CanLII 60708 (ON SCDC)*, the Divisional Court stated: "*Being reasonably able to participate in the proceeding must be interpreted broadly, natural justice requires no less.*" In *King-Winton*, there was evidence to suggest that the tenant missed her hearing because of her honest but mistaken belief in an incorrect hearing date.
5. In the review request before me, I find that on a balance of probabilities, the Landlord was not reasonably able to participate in the September 26, 2022 hearing; with regard to the above case law citation, I must give a broad interpretation of the right to be heard, especially since I am unable to certify how and when a Notice of Hearing was sent to the Landlord, if it indeed was. Therefore, the request-to-review was granted, the matter was directed to a re-hearing of the L1 application, *de novo*.

### L1 Application – de novo

6. The Landlord served the Tenant with a valid Notice to End Tenancy Early for Nonpayment of Rent (N4 Notice). The Tenant did not void the notice by paying the amount of rent arrears owing by the termination date in the N4 Notice or before the date the application was filed.
7. As of the hearing date, the Tenant was still in possession of the rental unit.
8. The lawful rent is \$1,000.00. It is due on the 27th day of each month.



9. Based on the Monthly rent, the daily rent/compensation is \$32.88. This amount is calculated as follows: \$1,000.00 x 12, divided by 365 days.
10. The Tenant has not made any payments since the application was filed.
11. The rent arrears owing to February 19, 2023 are \$16,230.16.
12. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

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13. There is no last month's rent deposit.
14. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. The Tenant failed to attend the hearing to provide evidence of their circumstances and the Landlord's representative is unaware of any circumstances that would cause me to delay or deny an eviction.
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 Landlord's request to review is granted.
2. LTB-L-001285-22-RV issued on October 26, 2022 is cancelled and replaced by the following:
3. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.
4. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
  - \$17,810.72 if the payment is made on or before April 2, 2023. See Schedule 1 for the calculation of the amount owing.
5. The Tenant may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenant has paid the full amount owing as ordered plus any additional rent that became due after April 2, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.
6. **If the Tenant does not pay the amount required to void this order the Tenant must move out of the rental unit on or before April 2, 2023**



7. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$16,218.88. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.
8. The Tenant shall also pay the Landlord compensation of \$32.88 per day for the use of the unit starting February 14, 2023 until the date the Tenant moves out of the unit.
9. If the Tenant does not pay the Landlord the full amount owing on or before April 2, 2023, the Tenant will start to owe interest. This will be simple interest calculated from April 3, 2023 at 5.00% annually on the balance outstanding.
10. If the unit is not vacated on or before April 2, 2023, then starting April 3, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.

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11. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord on or after April 3, 2023.

**March 22, 2023**

**Date Issued**

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Alicia Johnson

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.



**Schedule 1 SUMMARY OF CALCULATIONS**

**A. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before April 2, 2023**

Rent Owing To April 19, 2023	\$17,624.72
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the Landlord owes the Tenant for an{abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$17,810.72</b>

**B. Amount the Tenant must pay if the tenancy is terminated**

Rent Owing To Hearing Date	\$16,032.88
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00



<b>Less</b> the amount of the last month's rent deposit	- \$
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$0.00
<b>Less</b> the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total amount owing to the Landlord</b>	<b>\$16,218.88</b>
Plus daily compensation owing for each day of occupation starting February 14, 2023	\$32.88 (per day)