



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

**Citation:** Reed v Rosen, 2023 ONLTB 27124

**Date:** 2023-03-16

**File Number:** LTB-L-070858-22-RV

**In the matter of:** 1206, 29 QUEENS QUAY E  
TORONTO ON M5E0A4

**Between:** Wendy Reed Landlord

**And**

David Rosen Tenant

### Review Order

Wendy Reed (the 'Landlord') applied for an order to terminate the tenancy and evict David Rosen (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-070858-22, issued on March 9, 2023.

On March 14, 2023, the Tenant requested a review of the order.

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

#### **Determinations:**

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.
2. The Tenant submits the presiding adjudicator erred by ordering the Tenant to pay more than the Board's monetary jurisdiction of \$35,000.00 to void an eviction order for rental arrears.
3. In *Horstein et al. v. Royal Bank of Canada*, 2010 ONSC 3134 (Div. Ct.) (CanLII), the Divisional Court ruled that the limit on the Board's monetary jurisdiction does not apply to subsection 74(11) of the *Residential Tenancies Act, 2006* (the 'Act'). The court ruled, at paragraph 13: "To hold that the monetary cap applies to 'the outstanding arrears of rent' would result in an absurdity. The defaulting tenant could continue *ad infinitum* to merely pay the monetary limit and continue in possession, all while continuing in default."
4. Although the Divisional Court's ruling in *Horstein* considered subsection 74(11) of the Act, I find that the principle applies equally to voiding an arrears of rent Board order under subsection 74(6) of the Act.



5. Therefore, the Board does have the jurisdiction to order the Tenant to pay more than \$35,000.00 to void an eviction order for rental arrears, under section 74 of the Act. The Tenant's request to review the March 9, 2023 order will accordingly be denied.

**It is ordered that:**

1. The request to review order LTB-L-070858-22, issued on March 9, 2023, is denied. The order is confirmed and remains unchanged.

**March 16, 2023**

**Date Issued**

15 Grosvenor Street, Ground Floor  
Toronto ON M7A 2G6

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Harry Cho

Vice Chair, Landlord and Tenant Board

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