



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

Citation: 1746 BLOOR HOLDINGS INC v Gao, 2023 ONLTB 25420

Date: 2023-03-15 **File Number:**
LTB-L-078666-22-RV

In the matter of: 305, 1745 Bloor Street
Mississauga Ontario L4X1S6

Between: 1746 BLOOR HOLDINGS INC Landlord

And

Michael Q. Gao Tenant

Review Order

1746 BLOOR HOLDINGS INC (the 'Landlord') applied for an order requiring Michael Q. Gao (the 'Tenant') to pay the rent that the Tenant owes.

This application was resolved by order LTB-L-078666-22 issued on January 11, 2023. An amended order LTB-L-078666-22-AM was issued on January 20, 2023, to include the last month's rent deposit that the Landlord was still holding.

On February 9, 2023, the Landlord requested a review of the order and that the order be stayed until the request to review the order is resolved.

On February 13, 2023, interim order LTB-L-078666-22-RV-IN was issued, staying the order issued on January 20, 2023.

This application was heard in by videoconference on March 6, 2023.

The Landlord's Legal Representative, Howard Levenson, the Landlord's Agent, Cynthia English, and the Tenant attended the hearing. **Determinations:**

Landlord's Request for Review



1. The Landlord's Legal Representative asked the Board to review parts of order LTB-L078666-22-AM, as the Landlord's Legal Representative believes that the order contains serious errors.
2. Paragraph 13 of order LTB-L-078666-22-AM issued on January 20, 2023, states: *“I am satisfied the Landlord has met the burden of proof in mitigating their losses, and in good faith tried to rent the rental unit out after the Tenants had vacated without proper notice, however the Landlord’s claim for the months of April 2021 to September 2021 are not warranted.”*
3. And paragraph 14 states: *“Pursuant to s. 44(4) of the Act, the earliest termination date of the tenancy, based on the Tenant’s email on January 19, 2021, would be for the month ending March 31, 2021.”*
4. The Landlord's Legal Representative explained that the Tenant moved in on November 1, 2020, and the Tenant vacated on February 21, 2021. The Tenant had signed a one-year rental lease meaning that the Tenant is responsible for the rent up until October 31, 2021. At the hearing, the Tenant confirmed that he signed a one-year lease.
5. The Landlord's Legal Representative added that since the Tenant was responsible for the rent up to October 31, 2021, how could paragraph 14 in the order allow the Tenant to only be responsible for the rent up to March 31, 2021.
6. The Landlord's Legal Representative, also, wondered how paragraph 13 in the order could state that the Landlord had met the burden of proof in mitigating rental losses on one hand, yet take away the claims of missing rent from April 2021 to September 2021, when the rental unit was finally re-rented.
7. On the basis of the submissions made in the request, I am satisfied that there are serious errors in the order.
8. The Landlord’s request to review the order is granted.

New Hearing of the Landlord’s L9 Application

9. The Tenant moved into the rental unit on November 1, 2020, as a result of a signed oneyear lease agreement with the Landlord.
10. The Tenant was in possession of the rental unit on the date the application was filed.
11. The lawful rent was \$1,450.00. It was due on the 1st day of each month.



12. Based on the Monthly rent, the daily rent/compensation is \$47.67. This amount is calculated as follows: \$1,450.00 x 12, divided by 365 days.
13. The Tenant gave improper notice on January 19, 2021, and then vacated the rental unit on February 21, 2021.
14. The Tenant did not pay the total rent the Tenant was required to pay for the period from February 1, 2021 to October 31, 2021 as per the signed rental agreement.
15. The Tenant testified that the Landlord did not in good faith try to re-rent his rental unit in a timely manner to mitigate the rental losses as is required by Section 16 of the *Residential Tenancies Act, 2006* (the 'Act'). The Tenant also stated that the Landlord prevented him from trying to re-rent his rental unit himself but did not have any proof to present at the hearing that would illustrate this.
16. The Landlord's Agent replied that the Landlord would always welcome anybody who was interested in renting the Tenant's unit as long as an application was first made to the Landlord. The Landlord did not receive any rental referrals from the Tenant throughout the entire period in question.
17. The Landlord's Agent added that the Landlord had started to try and rent the Tenant's rental unit as early as February 6, 2021, and the Landlord continued right up until the rental unit was re-rented on September 14, 2021. The Landlord's Legal Representative, then presented evidence to the Board which indicated the amounts spent on advertising the rental unit and which companies the Landlord advertised with during the entire time period. It was also noted that in order to re-rent the rental unit the Landlord offered a \$50.00 per month price reduction plus 1 month of free rent to finally fill the rental unit vacancy.
18. The Landlord's Legal Representative added that during 2021, when Covid was at its peak, it was difficult to rent properties.
19. The Tenant responded that the Landlord's rental ads were not specific and as such should not be considered by the Board. However, the Landlord's Agent responded that the Tenant's unit was the only bachelor unit that was available at that time and it was the lowest price unit in the 110 unit residential complex. The Landlord's ads did indicate the price for the bachelor unit.
20. Based on his testimony, the Tenant was actually aware that the Landlord was trying to mitigate the rental losses due to the fact that he was aware of the \$50.00 per month rent discount as well as the free month of rent offer that had occurred in August 2021.
21. The rent arrears and daily compensation owing to September 13, 2021, are \$10,769.71. (This includes 7 months of rent owing from February 1, 2021 to August 31, 2021 + 13 days of rent owing in the month of September 2021.)



22. The Landlord collected a rent deposit of \$1,450.00 from the Tenant and this deposit is still being held by the Landlord. The rent deposit will be applied to the arrears of rent because the tenancy is terminated.
23. Interest on the rent deposit, in the amount of \$21.41 is owing to the Tenant for the period from November 1, 2020 to September 13, 2021.
24. The Tenant has paid \$1,251.00 to the Landlord after the order LTB-L-078666-22-AM was issued. This amount will be subtracted from the amount owing to the Landlord.
25. The Landlord also incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
26. This order contains all of the reasons in this matter and no other reasons shall be issued.

It is ordered that:

1. The Landlord's request for review is granted.
2. The order LTB-L-078666-22-AM issued on January 20, 2023, is cancelled and replaced with the following:
3. The Tenant shall pay to the Landlord **\$8,047.30** on or before March 31, 2023. This amount includes rent arrears owing up to September 13, 2021, minus the Tenant's rent payment after the order LTB-L-078666-22-AM was issued, minus the rent deposit and interest owing on the rent deposit.
4. The Tenant shall also pay the Landlord **\$186.00** for the cost of filing the application.
5. If the Tenant does not pay the Landlord the full amount owing on or before March 31, 2023, the Tenant will start to owe interest. This will be simple interest calculated from April 1, 2023, at 5.00% annually on the balance outstanding.

March 15, 2023

Date Issued

Michael Di Salle

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.