



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

Citation: Kim v Hannan, 2023 ONLTB 25790

Date: 2023-03-09 **File Number:** LTB-L-079138-22-RV-RV

In the matter of: 7 RIVERHILL DR
MAPLE ON L6A0P2

Between: Hee Jin Kim Landlord
Sun Min Kim

And

Joanne V Hannan Tenant

Review Order

Hee Jin Kim and Sun Min Kim (the 'Landlord') applied for an order to terminate the tenancy and evict Joanne V Hannan (the 'Tenant') because the Tenant entered into an agreement to terminate the tenancy.

This application was resolved by order LTB-L-079138-22-SA issued on March 3, 2023. The Tenant requested to review order LTB-L-079138-22-SA issued on March 3, 2023 and the review request was resolved by review denial order LTB-L-079138-22-RV, issued on March 6, 2023. On March 7, 2023, the Tenant requested a second review of order LTB-L-079138-22-SA issued on March 3, 2023. A preliminary review of the Tenant's Second Review Request was completed without a hearing.

Determinations:

1. For the reasons below, the Tenant's Second Review Request is denied.
2. By way of background, the Landlord's L3 application was resolved by order LTB-L-07913822-SA issued on March 3, 2023 (the "**March 3, 2023 Order**").
3. On March 3, 2023, the Tenant requested to review the March 3, 2023 Order (the "**First Review Request**") and the review request was resolved by review order LTB-L-079138-22RV, issued on March 6, 2023. On March 7, 2023, the Tenant requested a second review of the March 3, 2023 Order (The "**Second Review Request**")

4. The Tenant's Second Review Request must be denied. This is a further request to review from the same requesting party which is prohibited by Rule 26.18 of the Board's Rules which provides that "*the LTB will not consider a further request to review the same order or to review the review order from the same requesting party*". While Rule A4.2 gives the Board

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discretion to waive any rule or procedure, for the reasons that follow I am not satisfied it would be appropriate to do so in this case.

5. The Tenant's Second Review Request alleges, among other things, the Tenant "*arguably signed the N11 under duress*" and that the member "*makes no references to the age of the Tenant's agent but, more to the point, accepts that the Tenant's agent contested neither the facts nor the agreement, which surely would have occurred had the tenant been represented by a licensee*".
6. At the hearing, the Tenant's agent did not allege the N11 was signed under duress. The substance of the Tenant's Second Review Request is that the Tenant disagrees with the position and/or strategy undertaken by the Tenant's agent, who gave testimony, answered questions and participated in the motion hearing on the Tenant's behalf. The purpose of the review process, however, is not to provide parties with an opportunity of relitigating the issues in hopes of a different or better outcome. Here, the Tenant chose to participate at the motion by sending an agent to represent the Tenant's interests and the hearing recording does not give rise to a reasonable belief that the Tenant's agent was incapacitated, or otherwise confused or mistaken.
7. Further, the Tenant's Second Review Request has not raised new evidence which was unavailable at the time of the motion hearing - or at the time the First Review Request was filed. I am thus not satisfied it would be appropriate in the circumstances to exercise my discretion under Rule A4.2 to waive Rule 26.18 which prohibits a further request to review from the same requesting party. The Tenant's Second Review Request must therefore be denied.

It is ordered that:

1. The request to review order LTB-L-079138-22-SA, issued on March 3, 2023, is denied.
2. The order is confirmed and remains unchanged.

March 9, 2023

Date Issued

Peter Nicholson

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

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