



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

Citation: Kim v Hannan, 2023 ONLTB 25359

Date: 2023-03-06 **File Number:**
LTB-L-079138-22-RV

In the matter of: 7 RIVERHILL DR
MAPLE ON L6A0P2

Between: Hee Jin Kim
Sun Min Kim
Landlords

And

Joanne V Hannan Tenant

Review Order

Hee Jin Kim and Sun Min Kim (the 'Landlords') 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, issued on February 7, 2023. The Tenant filed a motion to set aside order LTB-L-079138-22.

The Tenant's motion was resolved by order LTB-L-079138-22-SA, issued on March 3, 2023.

On March 4, 2023, the Tenant requested a review of the order LTB-L-079138-22-SA 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 that she was compelled to work on March 1, 2023, the day the Tenant's set aside motion was heard. Accordingly, the Tenant submits they were not reasonably able to participate at the hearing. I disagree.
2. Having reviewed the LTB's record and the hearing recording, I find that the Tenant was afforded a reasonable opportunity to participate at the motion hearing. The LTB's record shows that the Notice of Hearing for the Tenant's set aside motion was sent to the Tenant on February 8, 2023. There is no indication that the Tenant requested the motion hearing be re-scheduled prior to the hearing. Rather, the Tenant chose to participate by sending an Agent to represent their interest. The Tenant's Agent did not request an adjournment at the hearing. I also note that the review request does not indicate that the Tenant did not have the ability to participate by calling into the hearing or participate by other electronic means.

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3. The Tenant submits that the order contains a serious error because the Tenant's Agent misrepresented the Tenant's current income. The Tenant says that their annual income was \$100,000.00 (pre-Covid) which was reduced to \$60,000.00 (post-Covid). This does not amount to a serious error in the order because, in my view, this information did not affect the decision in the order.
4. After considering all the disclosed circumstances, the hearing member determines it would be unfair to set aside the order or delay the eviction. Whether the Tenant's income is \$100,000.00 or \$60,000.00 does not affect this determination because, ultimately, the Tenant's position on the set aside was that they required more time to find suitable housing because of the Tenant's financial hardship and inability to find suitable housing. In making the decision to deny the set aside or delay of eviction, the hearing member considers the Tenant's submission of financial hardship and the Tenant's alleged inability to find suitable housing (paragraph 11 of the order).
5. The hearing member weighs the Tenant's circumstances with that of Landlords' to arrive at the decision to deny the Tenant's motion and delay of eviction. The order provides adequate reasons at paragraphs 10 and 11 of the order for the denial. The decision to deny the Tenant's request for a delay of eviction represents a reasonable exercise of discretion by the hearing member. The decision is entitled to deference and will not be interfered with on review.
6. 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 or that the Tenant was not reasonably able to participate in the proceeding.

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 6, 2023

Date Issued

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.

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