



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

Citation: Kiama v Simpson, 2023 ONLTB 22008

Date: 2023-02-17

File Number: LTB-L-002714-22-RV

In the matter of: 7 AVONMORE ST
BRAMPTON ON L6W2S5

Between: Jane Kiama Landlords
Joshua Kiama

And

Renae Simpson Tenant

Review Order

Jane Kiama and Joshua Kiama (the 'Landlords') applied for an order to terminate the tenancy and evict Renae Simpson (the 'Tenant') because:

- the Landlord in good faith requires possession of the rental unit for the purpose of residential occupation for at least one year.

The Landlords also applied for an order requiring Renae Simpson (the 'Tenant') to pay the Landlord's reasonable out-of-pocket expenses that are the result of the Tenant's failure to pay utility costs they were required to pay under the terms of the tenancy agreement.

This application was resolved by order LTB-L-002714-22, issued on January 3, 2023.

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

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

Determinations:

- The Tenant does not submit that a serious error exists in the January 3, 2023 order, or that a serious error occurred at the October 4, 2022 hearing. The Tenant instead asks that the February 28, 2023 eviction enforcement date be postponed, because the Tenant has secured new accommodation that is available at the end of April 2023.
- I am mindful of the Tenant's review submissions. The Board's Rules of Procedure, however, do not permit a review of the January 3, 2023 order in these circumstances. Rule 26.8 requires a requesting party to provide "sufficient information to support a preliminary finding of an alleged serious error or an explanation why the requestor was not reasonably able to participate in the hearing".



3. The January 3, 2023 order shows that the presiding adjudicator correctly considered the parties' circumstances when he exercised his discretion under subsection 83(1)(b) of the *Residential Tenancies Act, 2006* (the 'Act') to postpone enforcement of the eviction order until February 28, 2023. The order, for example, recites the Tenant's evidence that her son attends a nearby school, and also the Landlords' evidence that they reside in a basement residential unit.
4. The January 3, 2023 order explains how and why the presiding adjudicator determined it was not unfair to postpone enforcing the eviction until February 28, 2023. The order therefore contains sufficient reasons. The order also shows that the adjudicator considered relevant factors in arriving at his decision. The adjudicator's exercise of discretion is therefore rational. Although another Board adjudicator may have exercised their discretion differently, I find that the adjudicator's exercise is entitled to deference.
5. The Tenant has therefore not shown that a serious error may exist in the January 3, 2023 order, or that a serious error may have occurred at the October 4, 2022 hearing. The request to review the order must in the circumstances be denied.

It is ordered that:

1. The request to review order LTB-L-002714-22, issued on January 3, 2023, is denied. The order is confirmed and remains unchanged.

February 17, 2023

Date Issued

15 Grosvenor Street, Ground Floor
Toronto ON M7A 2G6

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.

