



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

Citation: Mercuri v Santos, 2023 ONLTB 21983

Date: 2023-02-17

File Number: LTB-L-034010-22-RV

In the matter of: Upper Unit B, 244 PERTH AVE
TORONTO ON M6P3Y1

Between: Nat Mercuri Landlord

And

Sonia Santos Tenant

Review Order

Nat Mercuri (the 'Landlord') applied for an order to terminate the tenancy and evict Sonia Santos (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by consent order LTB-L-034010-22, issued on February 10, 2023.

On February 15, 2023, the Tenant requested a review of the order.

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

Determinations:

1. I have listened to the January 31, 2023 hearing recording and I have reviewed the Board's application record. 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 hearing recording shows that the Tenant consented to the terms of the February 10, 2023 order. The Tenant confirmed that she understood and agreed to the terms of the consent order. The Tenant did not request an adjournment and did not lead evidence of incapacity. Nothing in the hearing recording supports an objective finding that the Tenant was not able to reasonably participate in the January 31, 2023 hearing.
3. In *Lacroix v. Central-McKinlay International Ltd.*, 2022 ONSC 2807 (Div. Ct.) (CanLII), the Divisional Court affirmed, at paragraph 11, that "it is incumbent on a party [who claims they were incapable of participating in the hearing] to raise the issue with the tribunal, or for there to be a basis on which the claim of incapability is grounded objectively in events at the hearing." The Divisional Court also affirmed at paragraph 14:

Parties are entitled to be represented by counsel before the LTB. However, they are not required to be represented by counsel, and a great many parties before the LTB are self-represented. The Tenant did not request an adjourn-



ment of the hearing.

4. Following the Divisional Court's reasons in *Lacroix*, I find that the Tenant's review submissions are not grounds to review the February 10, 2023 order. The hearing recording demonstrates that the Tenant was afforded procedural fairness, and that the Tenant confirmed understanding and agreeing to the terms set out in the order.
5. I therefore conclude that the Tenant has not shown that a serious error may exist in the February 10, 2023 order, or that a serious error may have occurred at the January 31, 2023 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-034010-22, issued on February 10, 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.

