



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

**Citation:** Sampson v Noormohammadi, 2023 ONLTB 20429

**Date:** 2023-02-15

**File Number:** LTB-T-078887-22-RV

**In the matter of:** 739 Greenfield Crescent  
Newmarket Ontario L3Y3B2

**Between:** Diane Sampson Tenants  
John Sampson

**And**

Mohammad Noormohammadi Landlord

### Review Order

Diane Sampson and John Sampson (the 'Tenants') applied for an order determining that Mohammad Noormohammadi (the 'Landlord') gave a notice of termination in bad faith .

This application was resolved by order LTB-T-078887-22 issued on December 21, 2022.

On January 19, 2023, the Landlord requested a review of the order and that the order be stayed until the request to review the order is resolved.

The Landlord alleged that the order contains a serious error.

On January 23, 2023, interim order LTB-T-078887-22-RV-IN was issued, staying the order issued on December 21, 2022.

This request was heard by videoconference on February 8, 2023.

The Landlord and the Tenants attended the hearing.

### Determinations:

1. The request to review is denied as I am not satisfied that there was a serious error in the order.
2. At the hearing, the Landlord pursued the following grounds for review:
  - a) the Landlord argued that order TNL-29749-20 issued on July 26, 2021 determined that the Tenants vacated the rental unit *because of* the N5 notice of termination served upon them with the termination date of November 27, 2020 and that because of this, the Tenants did not vacate the rental unit *because of* the N12 notice of termination;

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- b) the Landlord argued that it was an error for the Board Member to order the Landlord to pay the Tenants a rent differential under subsection 57(3)1 because the Tenants rented the subsequent comparator rental unit prior to the termination of the tenancy; and
  - c) the Landlord argued that there was a serious error with respect to the general compensation ordered because the Landlord disagreed with the factual findings upon which the order for general compensation was based.
3. I am not satisfied that order TNL-29749-20 issued on July 26, 2021 determined that the Tenants vacated the rental unit *because of* the N5 notice of termination. This order determined that the tenancy terminated on November 27, 2020 because the Tenants vacated the rental unit in accordance with the date in the notice. This is not the same as *vacating because of* the notice. The N5 notice permitted the Tenants to end the tenancy on the date identified in the notice, but it does not mean that the Tenants moved out because of that notice. This is particularly so in this case because the Tenants vacated the rental unit after being served with both an N12 notice and an N5 notice.
  4. I am not satisfied that the Board Member's interpretation and application of subsection 57(3)1 conflicts with a binding decision of the Courts or that it is clearly wrong and unreasonable. It was open to the Board Member to use the subsequent comparator rental unit in determining the amount owing under subsection 57(3)1 even if that rental unit was rented well prior to the date the Tenants vacated the rent. It was not clearly wrong and unreasonable for the Board Member to do so.
  5. The Landlord disagreed with the factual findings of the Board Member upon which the order for general compensation was founded, however, the Landlord did not establish that there was no rational connection between the evidence in the original hearing and the Board Member's findings of fact (see SWL-16171-10-RV (Re), 2011 CanLII 13354 (ON LTB)).
  6. As a result, I am not satisfied that there is a serious error in the order and the review is denied.

**It is ordered that:**

1. The request to review order LTB-T-078887-22 issued on December 21, 2022 is denied. The order is confirmed and remains unchanged.
2. The interim order issued on January 23, 2023 is cancelled. The stay of order LTB-T-078887-22 is lifted immediately.

**February 15, 2023**

**Date Issued**

15 Grosvenor Street, Ground Floor  
Toronto ON M7A 2G6

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Richard Ferriss

Member, Landlord and Tenant Board

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.