



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

Citation: Majidi v Callery, 2023 ONLTB 18894

Date: 2023-02-02 **File Number:**
LTB-L-003921-22-RV

In the matter of: 27 MAIN ST
MISSISSAUGA ON L5M1X5

Between: Peter Majidi Landlord

And

Edward Callery Tenant

Review Order

Peter Majidi (the 'Landlord') applied for an order to terminate the tenancy and evict Edward Callery (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 Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was resolved by order LTB-L-003921-22 issued on December 21, 2022.

On January 24, 2023, the Tenant requested a review of the order 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:

- The Tenant submits that the order contains a serious error and that they were not reasonably able to participate in the proceedings.
- 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.

3. The submissions made in the request are the same submissions made at the hearing. The presiding adjudicator recites some of these submissions in the order. Despite the Tenant's submissions, the adjudicator finds that the Landlord more than likely has a genuine intention to reside in the rental unit for the purposes of residential occupation for a period of at least one year. In doing so, the order applies the relevant case law that sets out the

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test for “good faith” to the facts of this case. The order provides adequate reasons explaining how and why the presiding adjudicator decided the matter. The order is therefore an adequate order.

4. The Tenant also submit that they were not reasonably able to participate in the hearing. The December 21, 2022 order, however, shows that the Tenant was afforded – and exercised – an adequate opportunity to address the issues raised in the application. As mentioned earlier in these reasons, the order recites some of the Tenant's evidence. This demonstrates that the Tenant was able to lead evidence and introduce submissions during the proceeding. The Tenant was therefore afforded procedural fairness.
5. While the presiding adjudicator did not allow documents submitted by the Tenant, the order gives reasons that explain why the documents were not considered – they were not disclosed in accordance with the Rule 19.1 of the Board's Rules of Procedure. A party who fails to comply with the rules of disclosure may not rely on the evidence that was not disclosed (Rule 19.7). Accordingly, the presiding adjudicator was entitled to not allow the Tenant to rely on the documents that were not disclosed in accordance with the rules.
6. The request to review seeks to revisit the presiding adjudicator's decision. While the Tenant clearly disagrees with the decision, the purpose of the review process is not to provide parties with an opportunity of relitigating the issues in hopes of achieving a different outcome. I would not interfere with the assessment of the evidence by the presiding adjudicator, who was in the best position to assess the credibility of the parties and had the opportunity of hearing the evidence in its totality.
7. As the Tenant's request to review fails to allege a serious error or that the Tenant was not reasonably able to participate in the proceedings, the request must be denied.

It is ordered that:

1. The request to review order LTB-L-003921-22, issued on December 21, 2022, is denied.
2. The order is confirmed and remains unchanged.

February 2, 2023

Date Issued

_____ Khalid Akram

Member, Landlord and Tenant Board

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