



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

Citation: Saeed v Ghaznavi Khan, 2023 ONLTB 16079

Date: 2023-01-23

File Number: LTB-T-075061-22-RV

In the matter of: 175 Ethel street
Ottawa Ontario K1L5X3

Between: Hassan Saeed Tenant

And

Taimoor Ghaznavi Khan Landlord

Review Order

Hassan Saeed (the 'Tenant') applied for an order determining that Taimoor Ghaznavi Khan (the 'Landlord') has collected or retained money illegally.

This application was resolved by order LTB-T-075061-22 issued on October 25, 2022.

On October 31, 2022, the Tenant requested a review of the order and that the order be stayed until the request to review the order is resolved. The Tenant alleged that they were not reasonably able to participate in the proceeding.

On November 1, 2022, interim order LTB-T-075061-22-RV-IN was issued, staying the order issued on October 25, 2022.

This request was heard by videoconference on January 17, 2023. The Landlord and the Tenant attended the hearing.

Determinations:

The Request

1. The Tenant alleged that they were not reasonably able to participate in the original proceeding of April 20, 2022 which resulted in the order dismissing the Tenant's application.
2. The Tenant testified that he was sick on the date of the hearing and provided a letter from his doctor dated October 26, 2022 which confirmed his testimony. The Tenant also



presented medical documents showing he was subsequently scheduled for surgery which took place on November 17, 2022.

3. Based on the submissions made in the request, I am satisfied that the Tenant was not reasonably able to participate in the proceeding.

The Application

4. The Tenant alleged that the Landlord retained the Tenant's last month's rent deposit. This is prohibited by the *Residential Tenancies Act, 2006* (the 'Act').
5. The Tenant provided a text message dated June 30, 2021, which confirmed that he paid to the Landlord, \$1,000.00 as the last month's rent deposit for the rental unit.
6. The Tenant moved into the unit on July 4, 2021 but on July 10, 2021, the parties agreed that the Tenant would move into another rental unit owned by the Landlord. However, the Landlord had him locked out of the second unit on July 10, 2021.
7. The Landlord did not return the last month's rent deposit to the Tenant.
8. The Landlord first testified that the Tenant only paid the rent for the first month of the tenancy, then stated without prove that \$500.00 was returned to the Tenant and lastly, that the last month's rent deposit was considered the rent for the first month in the second unit.

Analysis

9. Section 106 (10) of the Act provides that a Landlord shall apply a rent deposit that a Tenant has paid to the Landlord or to a former Landlord in payment of the rent for the last rent period before the tenancy terminates.
10. In this case, the evidence demonstrates that the Tenant paid the last month's rent deposit of \$1,000.00 to the Landlord who could not credibly refute the evidence. The Tenant moved into the second unit on July 10, 2021, the same day he was locked out, and the Landlord could not have applied the last month's rent deposit to that date.
11. As the last month's rent deposit was not applied to the month of July 2021, the Landlord must return the full deposit to the Tenant.

It is ordered that:

1. The request to review order LTB-T-075061-22 issued on October 25, 2022, is granted. The order cannot be enforced by the Landlord.
2. The interim order issued on November 1, 2022, is cancelled, and replaced with this order.
3. The Landlord shall pay to the Tenant the sum of \$1,000.00, which represents the last month's rent deposit.



4. If the Landlord does not pay the Tenant the full amount owing on or before February 1, 2023, the Landlord will start to owe interest. This will be simple interest calculated from February 2, 2023 at 5.00% annually on the balance outstanding.

January 30, 2023
Date Issued

Jitewa Edu
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.