



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

Citation: Kamche v Kalala, 2023 ONLTB 16434

Date: 2023-01-20

File Number: LTB-L-060117-22-RV

In the matter of: 406, 4062 LAWRENCE AVE E
SCARBOROUGH ON M1E4V5

Between: Marie Kamche Landlord

And

Patricia Kalala Tenant

Review Order

Marie Kamche (the 'Landlord') applied for an order to terminate the tenancy and evict Patricia Kalala (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-060117-22 issued on December 7, 2022 (the "**Hearing Order**").

On January 12, 2023, the Tenant filed a motion to void Order LTB-L-060117-22, pursuant to section 74(6) of the Residential Tenancies Act, 2006. The Tenant's motion to void was resolved by order LTB-L-060117-22-VO issued by the Board on January 13, 2023 (the "**Voiding Order**").

On January 18, 2023, Marie Kamche (the 'Landlord') requested that order LTB-L-060117-22-VO, issued on January 13, 2023 be reviewed on the basis it contains a serious error and the Landlord was not reasonable able to participate in the proceeding, and that the order be stayed until the request to review the order is resolved.

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

Determinations:

1. For the reasons below, the Landlord's review request is denied.
2. By way of background, the Landlord's N4 application was resolved by order LTB-L-060117-22 issued on December 7, 2022 (the "**Hearing Order**"). Paragraph 2 of the Hearing Order provided two ways in which the Tenant may void the order prior to the eviction enforceability date.
3. The Tenant's first voiding option under paragraph 2 is determinative here. Paragraph 2 of the Hearing Order provides that the Tenant may void the Hearing Order upon payment of the



sum of \$11,087.94 on or before December 31, 2022 [emphasis added]. Accordingly, pursuant to paragraph 2 of the Hearing Order, on January 12, 2023, the Tenant filed a motion to void Order LTB-L-060117-22 on the basis that \$11,087.94 was paid to the Landlord on or before December 31, 2022, thus bringing the Tenant's rent ledger to a zero balance as of December 31, 2022.

4. The Tenant's motion was brought pursuant to sections 74(4) and 74(6) of the Residential Tenancies Act, 2006 (the "Act"). Based upon the materials filed by the Tenant, on January 13, 2023 the Board issued a voiding order without holding a hearing (the "**Voiding Order**").
5. The Landlord's review request indicates the Voiding Order contains a serious error because the Tenant did not pay the full amount required in order to void the Hearing Order. I disagree. The voiding motion brought by the Tenant, as evidenced by the interact e-transfer confirmations, confirms that the Tenant, in conjunction with the Rent Bank, paid the sum of \$11,087.94 to the Landlord on or before December 31, 2022. The Landlord's review request acknowledges the December payments, with the exception of the final payment made in the amount of \$1 which the Landlord states was made on January 1, 2023. Upon review of the Tenant's motion to void and attached e-transfer confirmation, I find the final payment of \$1 was made on December 31, 2022. Accordingly, I find the member was correct in granting the Tenant's motion to void.
6. The Landlord's review request also notes the Tenant did not pay rent for January 2023 and references section 74(11) of the Act, as well as the second option to void the Hearing Order. Neither are applicable here. Section 74(11) of the Act is not the applicable provision as it relates to those situations where the eviction order has already become enforceable. As the Tenant reached a zero balance on or before December 31, 2022, the required amount to void the order was paid before the eviction order became enforceable.
7. The Landlord's review request also references paragraph 11 of the Hearing Order, which requires the Tenant to make 3 installment payments during the month of December 2022. The payments in paragraph 11 of the Hearing Order are subject to section 78 of the Act, and was included due to counteract the delayed enforceability eviction date of January 4, 2023. The installment payments noted in Paragraph 11 of the Order are not in addition to the amount owing in paragraph 2 of the Order, and were included to give the Landlord the option of bringing an *ex parte* motion should the Tenant not be taking timely steps to pay the arrears owing.
8. Accordingly, I do not find the Voiding Order contains a serious error or that the Landlord was not reasonably able to participate, as alleged. In this regard, I note that section 74(8) of the Act specifically provides the Voiding Order may be issued without holding a hearing.



It is ordered that:

1. The request to review order LTB-L-060117-22-VO issued on January 13, 2023 is denied.
2. The order is confirmed and remains unchanged.

January 20, 2023

Date Issued

Peter Nicholson

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.