



Order under Subsection 87 Residential Tenancies Act, 2006

Citation: EMAM v AYTON, 2023 ONLTB 15927

Date: 2023-01-19

File Number: LTB-L-055169-22

In the matter of: 1848 LAMSTONE STREET
INNISFIL ON L9S4Z8

Between: SASSAN EMAM Landlord

And

DARLINE AYTONE and TERELL AYTON Tenant

SASSAN EMAM (the 'Landlord') applied for an order requiring DARLINE AYTONE and TERELL AYTON (the 'Tenant') to pay the rent that the Tenant owes.

This application was resolved by order LTB-L-055169-22 issued on December 2, 2022.

On December 23, 2022, the Landlord requested a review of the order.

On December 28, 2022 interim order LTB-L-055169-22-RV-IN was issued.

This review was heard by videoconference on January 16, 2023.

Only the Landlord attended the hearing.

As of 1:53 p.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

Review Hearing:

1. The Landlord's request for review is based on being not reasonably able to participate at the hearing as the Landlord states he did not receive the notice of hearing from the Board.
2. The Landlord submits that he has had issues with mail delivery where there have been times that mail addressed to him would be delivered to another business in his building. The Tenants were not present at the review to provide any submissions.
3. In *King-Winton v. Doverhold Investments Ltd.*, 2008 CanLII 60708, the Divisional Court held that "being reasonably able to participate in the proceeding must be interpreted broadly, natural justice requires no less."



4. Interpretating this situation broadly, and based on the uncontested evidence before me, at the hearing I granted the Landlord's request for review. A hearing on the Landlord's application proceeded de novo (anew).

L9 Application:

5. The Tenant was in possession of the rental unit on the date the application was filed.
6. The Tenant vacated the rental unit on June 14, 2022. Rent arrears are calculated up to the date the Tenant vacated the rental unit.
7. The Tenant did not pay the total rent they were required to pay for the period from March 1, 2022 to June 14, 2022.
8. The lawful rent is \$1,870.00. It is due on the 1st day of each month.
9. The Tenant has not made any payments since the application was filed.
10. The rent arrears and daily compensation owing to June 14, 2022 are \$6,470.72
11. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

It is ordered that:

1. The request to review order LTB-L-055169-22 issued on December 2, 2022 is granted. The order is cancelled and replaced with the following.
2. The interim order issued on December 28, 2022 is cancelled.
3. The Tenant shall pay to the Landlord \$6,656.72 by January 30, 2023. This amount includes rent arrears owing up to June 14, 2022 and the cost of the application.
4. If the Tenant does not pay the Landlord the full amount owing on or before January 31, 2023, the Tenant will start to owe interest. This will be simple interest calculated from January 31, 2023 at 5.00% annually on the balance outstanding.

January 19, 2023
Date Issued

Heather Chapple
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.

