



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

**Citation:** REGALADO v HYMAN, 2023 ONLTB 15058

**Date:** 2023-01-16

**File Number:** LTB-T-002521-23-RV

(CET-96011-20\_CET-98652-21)

**In the matter of:** BASEMENT, 100 BRAIDWOOD LAKE ROAD  
BRAMPTON ON L6Z4M1

**Between:** DEANNA REGALADO Tenant

**And**

CARMEN HYMAN Landlord  
KENRICK HYMAN

**Your file has been moved to the Landlord and Tenant Board’s new case management system, the Tribunals Ontario Portal. Your new file number is LTB-T-002521-23.**

**Review Order**

DEANNA REGALADO (the 'Tenant') applied for an order determining that CARMEN HYMAN and KENRICK HYMAN (the 'Landlord') entered the rental unit illegally; altered the locking system on a door giving entry to the rental unit or residential complex without giving the Tenant replacement keys; substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenant or by a member of the Tenant's household; harassed, obstructed, coerced, threatened or interfered with the Tenant; and, withheld or interfered with the Tenant's vital services or care services and meals in the care home;.

This application was resolved by order CET-96011-20\_CET-98652-21 issued on December 5, 2022 .

On January 6, 2023, the Landlords 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 review request was completed without a hearing.

**Determinations:**

1. 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.



### *Procedure*

2. The Landlords allege there was an error in procedure at the October 6, 2022 hearing that was never corrected by the hearing member.
3. Section 26.8(e) of the Board's Rules of Procedure states a Request to Review must provide sufficient information to support a preliminary finding of an alleged serious error. Particulars were not provided to support the alleged procedural abnormality aside from asserting that the "*process was done backwards*". Based upon the lack of particulars provided, I find the Landlords failed to provide sufficient information to support a preliminary finding of an alleged serious procedural error, or that the alleged procedural error adversely impacted the member's decision.

### *Removal of Party*

4. The Landlords allege there is an error in fact, as a result of the member finding the first named tenant "CR" merely signed the lease as a guarantor and not as tenant. As a result, the application was amended to remove CR as a tenant.
5. Although the Landlords disagree with the hearing member's finding, it is apparent from the order that the hearing member considered the relevant factual evidence in determine whether "CR" was a tenant or not. The member's finding is entitled to deference and moreover, is not a finding of fact on a material issue which would potentially change the result of the order as it relates to Landlords' rights and interests.

### *Exercise of Discretion*

6. The Landlords alleged the presiding member employed an unreasonable exercise of discretion in awarding compensation to the Tenant in the amount \$17,390.00.
7. In support of this submission, the Landlords note the Tenant lied about owning a Smart TV; as well as a Kitchen Table with Four Chairs. At paragraph 35 of the Order, however, the member notes that the Landlord did not dispute that the Tenant owned the list of items in paragraph 33 of the Order, which specifically included the Smart TV and the Kitchen Table with Four Chairs. The request to review also specifically acknowledges the Kitchen Table set was a "*brown round table with a high chair and a white chair around it*". The Board's review process is not an opportunity for a person to re-argue a matter that has been finally concluded. The presiding member had the opportunity and benefit of hearing the evidence in its totality, and thus, the hearing member's assessment of the credibility of the parties is entitled to deference.
8. The Landlords submit the hearing member overly compensated the Tenants for a "*Toddler bed & Day bed*" by awarding \$700; a "*Sofas – 2 pieces*" by awarding \$600.00; a "*TV stand*" by awarding \$250.00 and a "*Battery-Operated Car*" by awarding \$300.00. The request to review seeks to revisit the hearing member's decision as to the quantum awarded for the damaged items. The hearing member correctly noted that the Tenant is only entitled to the reasonable replacement costs of the damaged items and not necessarily the original



purchase price of what a brand-new item would cost today. The hearing member noted that some of the Tenants' requested replacement costs were inflated, and thus, those items were adjusted downward. With respect to the sofa, the hearing member specifically took into account its size and used condition, in coming to the downward-adjusted, replacement cost figure of \$600.00. While the Landlords disagree with the quantum and assessment of items found to be damaged by the Landlords, the presiding member's exercise of discretion was grounded on the parties' evidence, and that exercise of discretion does not appear to be capricious or otherwise improper.

9. Lastly, the Landlords submit they were double charged for items that the Tenants took with them, including toiletries/ hairbrushes / mac makeup, foot items, clothing and footwear. I disagree there was a "double charge" or there was double compensation, as alleged. It was the member's finding that these items were damaged as a result of the Landlord's actions. Given the member's finding of damage, the Tenants are entitled to the reasonable cost to repair, or where the repair is not reasonable, to their reasonable replacement cost.

#### Jurisdiction

10. The Landlords also allege there is an error in jurisdiction because "*the "LTB in not equipped to hear and quantify the items because it should be in the Small Claims Court."* I disagree there was any error of jurisdiction.
11. The Board's jurisdiction is established in Section 3(1) of the Residential Tenancies Act, 2006 (the "Act") which provides that the Act applies "*with respect to rental units in residential complex.*" A "*rental unit*" is further defined as meaning any "*living accommodation used or intended for use as rented residential premises*". The matter was heard by the Board over 5 hearing days and it was not contested that the rental unit was a basement apartment in which the Tenant lived.
12. The Applications were filed on time and were based upon alleged contraventions under the Act. Section 29(1) of the Act provides that for tenant applications such as the ones considered here, the tenant or former tenant may apply to the Board, but not more than "*one year after the day the alleged conduct giving rise to the application occurred*". The Tenant's T2 applications were filed on September 16, 2020 and February 16, 2021. As it was determined the Landlords breaches occurred within a few days of the Tenant's filing of the first T2 application, it is clear the applications were filed within the allowable time period noted under the Act.
13. The member was entitled to assess and award a sum payable to the Tenant as a result of the Landlords' breaches under the Act. Section 31(1) of the Act specifically provides that for applications and breaches as occurring here, the Board may order the Landlord to pay a specified sum for the repair, and where the repair is not reasonable, for the replacement cost for property that was damaged, destroyed or disposed as a result of the Landlord's activities. I find the member was acting within the statutory discretion provided.



**It is ordered that:**

1. The request to review order CET-96011-20\_CET-98652-21 issued on December 5, 2022, is denied.
2. The order is confirmed and remains unchanged.

**January 16, 2023**  
**Date Issued**

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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.