



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

Citation: Starlight Canadian Residential Growth Fund v Sharpe-simons, 2023 ONLTB 15223

Date: 2023-01-12

File Number: LTB-L-019588-22-RV

In the matter of: 0607, 580 THE EAST MALL
ETOBICOKE ON M9B4A7

Between: Starlight Canadian Residential Growth Fund Landlord

And

Donna Sharpe-simons\n Malcolm St clare
simons Tenant

Review Order

Starlight Canadian Residential Growth Fund (the 'Landlord') applied for an order to terminate the tenancy and evict Donna Sharpe-simons and Malcolm St clare simons (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-019588-22 issued on December 8, 2022.

On January 9, 2023, the Tenants requested a review of the order.

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.

Section 83

2. The Tenants' request for relief notes that a repayment plan was offered by the Tenants for the arrears of rent, and highlights some of the purported reasons for the arrears of rent, including the Tenants' confusion with parking charges and the Tenants' precarious employment situation.
3. The Board's review process is not an opportunity for a person to re-argue a matter that has been finally concluded.
4. I find the presiding adjudicator considered the relevant factors under section 83 of the Residential Tenancies Act, 2006 (the "Act") when she determined that it would be unfair to grant relief from eviction. In this regard, the hearing member specifically acknowledged at



paragraph 10 of the Order that the Tenants sought relief by way of a payment plan and considered and weighed the parties' disclosed circumstances in paragraphs 10 through to 12.

5. While the Tenants' request also notes they have had "financial hardship due to COVID", it is clear the hearing member considered the Tenants' precarious employment status and resulting financial hardship in paragraph 10 of the Order, ultimately concluding that the tenancy did not appear to be sustainable.
6. The hearing member had the opportunity of hearing and considering the parties s.83 submissions in its entirety. The decision to not grant relief from eviction does not appear to be capricious, and is entitled to deference

Payment of Arrears

7. The Tenants' request also notes that subsequent to the Order being received, the Tenants received a relief cheque from the Rent Bank and paid all outstanding rent and January rent in full, to the Landlord.
8. While the subsequent payment of rent arrears does not raise a serious error in the hearing member's order, the Tenants are at liberty to bring a *Tenant's Motion to Void an Eviction Order for Arrears of Rent*, should the circumstances warrant and the requisite requirements under section 74 of the Act are met.

It is ordered that:

1. The request to review order LTB-L-019588-22 issued on December 8, 2022, is denied.
2. The order is confirmed and remains unchanged.

January 11, 2023
Date Issued

Peter Nicholson
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.