



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

Citation: Shih v Notter, 2023 ONLTB 14301

Date: 2023-01-06

File Number: LTB-L-007830-22-RV

In the matter of: 150 HILLCREST DR
WHITBY ON L1N3C2

Between: Ivan Shih Landlord

And

Caroline Notter Tenant

2023 ONLTB 14301 (CanLII)

Review Order

Ivan Shih (the 'Landlord') applied for an order to terminate the tenancy and evict Caroline Notter (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-007830-22 issued on November 25, 2022.

On December 6, 2022, the Tenant requested a review of the order and that the order be stayed until the request to review the order is resolved.

On December 8, 2022, interim order LTB-L-007830-22-RV-IN was issued, staying the order issued on November 25, 2022.

The request was heard by videoconference on January 4, 2023.

The Landlord and the Tenant attended the hearing. The Tenant spoke to Tenant Duty Counsel prior to the hearing.

Determinations:

1. The Landlord's application first came before the Board on August 17, 2022.
2. The Board found that the Tenant raised numerous issues under section 82 of the *Residential Tenancies Act* 2006 (Act) but that many of the Tenant's allegations and requested remedies were unclear.

3. The Board adjourned the hearing and ordered the Tenant to revise the section 82 disclosure forms to clarify the allegations and remedies sought. The Tenant was to serve the revised forms on the Landlord and file them with the Board by August 29, 2022.
4. The Board also ordered the Tenant to pay the lawful rent on September 1, 2022 and thereafter until the next hearing date.
5. At the hearing on November 10, 2022, the Tenant confirmed that she had not complied with the interim order in that she did not submit revised section 82 disclosure forms and she did not pay the rent for October and November 2022.
6. The Tenant claims that the Board erred by finding that her section 82 disclosure forms were not sufficiently clear.
7. I am not satisfied that there is a serious error in the order or that a serious error occurred in the proceedings or that the Tenant was not reasonably able to participate in the proceeding.
8. There was sufficient evidence before the Board to conclude that the section 82 disclosure forms were not sufficiently clear. As noted in the interim order dated August 26, 2022, one of the remedies sought on the section 82 disclosure forms was for the Landlord to “have things properly installed and up to code”. Other examples are “the bathtub does not work” (without specifying the nature the problem), “reimbursement for the arborist and cleaning of the property and negligence” (without specifying the amount), and “the basement washroom only works when plugged in” (without clarification as to what this might mean).
9. These deficiencies deprive the Landlord of the information necessary to respond to the Tenant’s allegations and they deprive the Board of the information necessary to craft an order providing a remedy. As a result, I am satisfied that the Board did not err by finding the section 82 disclosure forms insufficiently clear and requiring revision. I am also satisfied that the Board did not err by declining to hear the Tenant’s section 82 issues in light of the Tenant’s failure to revise the section 82 disclosure forms.
10. In addition to the above, the Tenant’s failure to pay rent for October and November in breach of the interim order permitted the Board to refuse to hear the Tenant’s evidence in any event.
11. As a result, I am not satisfied that there is a serious error in the order or that a serious error occurred in the proceedings or that the Tenant was not reasonably able to participate in the proceeding.
12. I do note that there is a clerical error in the order with respect to the amount the Tenant is required to pay to void the order by making payment on or before December 6, 2022. Whereas the order states the Tenant must pay \$33,217.94 by that date, the amount should be \$35,586.00, this would be the full rent owing up to December 31, 2022, not just the per diem amount up to December 6, 2022. **The amount now owing for arrears and costs up to January 31, 2023 is \$38,536.00.**

It is ordered that:

1. The request to review order LTB-L-007830-22 issued on November 25, 2022 is denied. The order is confirmed and remains unchanged.

2. The interim order issued on December 8, 2022 is cancelled. The stay of order LTB-L-007830-22 is lifted immediately.

January 6, 2023
Date Issued

Richard Ferriss
Member, Landlord and Tenant Board

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