



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

**Citation:** HAVCARE INVESTMENTS INC. v Sparks, 2022 ONLTB 14347

**Date:** 2022-12-19

**File Number:** LTB-L-013681-22-RV

**In the matter of:** 1201, 500 DAWES ROAD  
TORONTO ON M4B2G1

**Between:** Landlord

**And**

Tenant

### Review Order

HAVCARE INVESTMENTS INC. (the 'Landlord') applied for an order to terminate the tenancy and evict Cedric Sparks (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

The Landlord also claimed charges related to NSF cheques.

This application was resolved by order LTB-L-013681-22 issued on September 26, 2022.

On Public Guardian Trustee (PGT) on behalf of the Tenant requested a review of the order.

On November 24, 2022 interim order LTB-L-013681-22-RV-IN was issued, staying the order issued on September 26, 2022.

This application was heard in by videoconference on December 13, 2022.

The Landlord's Agent, Sharon Mayer (SM), the Tenant's Representative, Radhika Sharma attended the hearing.

### Preliminary Issue:

1. The parties requested the consent of the Board to grant an adjournment which I denied because of the following:
2. Section 183 of the Act directs the Board to adopt the most expeditious method of determining the questions arising in a proceeding while affording the parties an adequate opportunity to be heard.
3. The Board's Interpretation Guideline 1 states that in applying section 183 the Board must ensure that the parties are given an adequate opportunity to be heard. As well, the



Guideline states that the key question becomes how to balance the rights of the parties to ensure that matters are resolved quickly while not adversely affecting their rights to a fair hearing.

4. The Board's Rule 21 on Rescheduling and Adjournments indicates a request to rescheduled must be on consent of all parties. In this case the email dated December 8, 2022 did not reflect consent was obtained from the Tenant. The Landlord also did not contact the Board to learn whether the request to reschedule was granted as required by Rule 21.6.
5. There was no reasonable explanation provided by SM to satisfy me that the Landlord could not attend the virtual hearing from abroad. There was no evidence led the Landlord does not have internet or was prevented from accessing the virtual hearing due to lack of technology. The fact that the Landlord was out of the country is not exceptional circumstances and despite obtaining the Tenant's consent, is not reasonable cause to grant the adjournment.
6. The Landlord's Agent was given time to contact the Landlord but she did not join the virtual hearing.
7. Section 7 of the SPPA provides that a tribunal may proceed with a hearing in the absence of a party.
8. The Tenant's Representative was prepared to proceed and the Landlord sent an authorized Agent (SM) in her place who attended the hearing. As such, parties were given adequate opportunity to participate at the hearing.
9. The lack of direction given to the SM is a cause of the Landlord's own negligence not a result of procedural error or an unreasonable exercise of my discretion.

**Tenant's Review Request:**

10. The following submission were uncontested: The Public Guardian and Trustee (PGT) did not receive Notice of the hearing held on September 13, 2022. According to the Tenant's Representative, the Landlord was aware PGT is the Tenant's guardian over all matters related to property, finances and all legal matters. The Landlord also knew that all notices or services must go the PGT. The Landlord having failed to identify them as the Tenant's Representative caused an error in procedure because they didn't receive the Notice of Hearing from the Board.
11. I note that the PGT became aware of the hearing on September 13, 2022 which was the same day as the hearing. The Representative explained, the PGT was led to believe they did not have to attend since the Landlord indicated she'd inform the Board the matter was settled given their agreement of a payment plan for the outstanding arrears the Tenant owed. The PGT only to learn about the eviction order once the Tenant informed them on the day the Sheriff attended.
12. On the basis of the submissions made in the request, I am satisfied that there is a serious procedural error and there's reasonable cause to grant the Tenant's review request.



**Determinations:**

13. The Landlord's Agent did not advance the application at the hearing declaring that the Landlord provided no instructions or direction to proceed.
14. Since there was no evidence from the Landlord to support the application filed, I find the application is abandoned.

**It is ordered that:**

1. Order LTB-L-013681-22 issued on October 28, 2022 is cancelled and cannot be enforced.
2. The L1 application is dismissed.

**December 19, 2022**

**Date Issued**

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**Sandra Macchione**

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.