



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

Citation: Brosseau-Jaber v 12127105 CANADA INC., 2022 ONLTB 14479

Date: 2022-12-16

File Number: LTB-T-059409-22-RV

In the matter of: 1, 667 WINDSOR AVE
WINDSOR ON N9A1J6

Between: Julia Anne Brosseau-Jabar Tenant

And

12127105 CANADA INC Landlords
Nisanthan Thurairasa

Review Order

Julia Anne Brosseau-Jabar (the 'Tenant') applied for an order determining that 12127105 CANADA INC and Nisanthan Thurairasa (the 'Landlords') withheld or deliberately interfered with the reasonable supply of a vital service, care service, or food that the Landlords are obligated to supply under the tenancy agreement; that the Landlords altered the locking system on a door giving entry to the rental unit or residential complex without giving the Tenant replacement keys; that the Landlords 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; and that the Landlords withheld or deliberately interfered with the reasonable supply of a vital service, care service, or food that the Landlords are obligated to supply under the tenancy agreement.

This application was resolved by order LTB-T-059409-22, issued on November 18, 2022.

On December 12, 2022, the Tenant requested a review of the order.

A preliminary review of the review request was completed without a hearing.

Determinations:

1. I have listened to the November 17, 2022 hearing recording and I have reviewed the Board's application record. 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 proceeding.
2. The hearing recording confirms that the Tenant and the Tenant's legal representative participated in the November 17, 2022 hearing by introducing evidence and making submissions, including a request to adjourn the hearing to allow the Tenant to amend her applications to the Board. The recording shows that the Tenant was aware of the issues to



be determined and was afforded a meaningful opportunity to participate in the hearing and address those issues. The Tenant was therefore afforded procedural fairness.

3. The decision to adjourn a hearing or to permit a party to amend a Board application is discretionary. The hearing recording and November 18, 2022 order show that the presiding adjudicator considered appropriate factors when he denied the Tenant's request to adjourn the hearing and to amend her applications with the Board. The adjudicator determined that the Tenant had sufficient time between receiving the Board's notice of hearing and the hearing date to amend her applications in accordance with Rule 15 of the Board's Rules of Procedure. The adjudicator found that the Tenant's request to amend the applications and adjourn the proceeding on the hearing date was not reasonable.
4. Although another Board adjudicator may have decided differently, it is evident that the presiding adjudicator correctly exercised his jurisdiction when he considered the Tenant's request to adjourn the hearing to amend her applications. The decision to deny the request was therefore not capricious, and it is accordingly entitled to deference.
5. Parties to an application are required to be prepared to proceed on the hearing date. This includes filing materials with the Board and disclosing such materials in accordance with Rule 19 of the Rules of Procedure. Section 183 of the *Residential Tenancies Act, 2006* (the 'Act') also requires the Board to adopt an expeditious procedure to resolve applications. The presiding adjudicator therefore did not err when he proceeded with the hearing, despite the Tenant's request to adjourn the hearing to also obtain and introduce evidence not yet in her possession.
6. The hearing recording shows that the Tenant requested an order requiring the Landlord to pay a continuing abatement of rent equal to the daily compensation payable for occupying the rental unit, if the Landlord does restore heat, hydro and a locking system as described in the November 18, 2022 order. The Tenant's representative submitted that ordering a 100 percent daily abatement of rent, starting November 17, 2022, was appropriate because the Tenant had not had heat, electricity or a locking system. There should therefore be no confusion between the parties over paragraph 5 of the order's active paragraphs.
7. The submission that the order "gives no recourse to the tenant, does not ensure compliance, and endorses the landlord's conduct of breaching the Act" is incorrect. The November 18, 2022 order requires the Landlord to immediately restore heat and the supply of electricity, and to install an adequate locking system. The order requires the Landlord to pay \$19.73 to the Tenant each day that the Tenant remains without heat, electricity or a locking system, starting November 17, 2022. The order also awards the Tenant a \$600.00 rental abatement and permits the Tenant to collect this amount by deducting it from rent on December 1, 2022.
8. The hearing recording confirms that the Tenant's representative submitted that the Landlord failed to provide adequate heat, electricity and a locking system. The Tenant's representative did not identify interference with the supply of hot water as an issue to be determined.
9. The Tenant has therefore not established that a serious error occurred when the presiding adjudicator declined the Tenant's request to adjourn the hearing and to amend her



applications. The request to review the November 18, 2022 order will accordingly be denied.

It is ordered that:

1. The request to review order LTB-T-059409-22, issued on November 18, 2022, is denied. The order is confirmed and remains unchanged.

December 22, 2022

Date Issued

15 Grosvenor Street, Ground Floor
Toronto ON M7A 2G6

Harry Cho

Member, Landlord and Tenant Board

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