



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

Citation: Rosenberg v Krane, 2022 ONLTB 14357

Date: 2022-12-14

File Number: LTB-L-012616-22-RV

In the matter of: Unit 2, Main Floor, 42 ELWAY CRT
NORTH YORK ON M6B2N8

Between: Sam Rosenberg Landlord

And

Ron Krane Tenant

Review Order

Sam Rosenberg (the 'Landlord') applied for an order to terminate the tenancy and evict Ron Krane (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-012616-22 issued on November 23, 2022.

On December 9, 2022, the Tenant requested a review of the order.

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

Determinations:

1. The order declines to grant the Tenant relief pursuant to s.83 of the RTA in the form of a payment plan proposed by the Tenant.
2. The Tenant submits that the hearing member seriously erred by failing to meaningfully consider the Tenant's evidence with respect to his ability to adhere to the payment plan and the viability of the tenancy.
3. 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 or that the Tenant was not reasonably able to participate in the proceeding.
4. The record and the order reflect that the hearing member considered the Tenant's evidence with respect to his potential employment – which the Tenant testified commenced October 3, 2022 – and the Tenant's ability to make payments. However, the member notes that the Tenant provided no evidence to support that the Tenant received an offer of (or accepted) employment. Therefore, it appears that the member gave this evidence little to no weight. The hearing member was entitled to do so.
5. The Tenant was not denied the opportunity to present his evidence with respect to the sustainability of a payment plan. S.183 of the RTA states that the LTB "shall adopt the



most expeditious method of determining the questions arising in a proceeding that affords to all persons directly affected by the proceeding an adequate opportunity to know the issues and be heard on the matter.” In this case, the Notice of Hearing was mailed to the Tenant on August 19, 2022 according to the LTB’s records. The Notice of Hearing informs the Tenant that they are to provide disclosure to the Landlord and to the LTB at least 7 days prior to the hearing. At the hearing, the Tenant did not request an opportunity to allow him to provide proof of his anticipated employment. The recording reflects that the member proposed to stand the matter down to allow the Tenant to provide proof of payment, but the Tenant refused indicating that he wouldn’t be able to until after the hearing. Therefore, I am satisfied that the Tenant was given an opportunity to present his evidence with respect to the sustainability of a payment plan.

6. The member also denied the relief requested by the Tenant based on the quantum of arrears and the fact that, at the time of the hearing, the Tenant was still unemployed with no income. It was therefore within a reasonable range of outcomes for the member to find that the tenancy was not viable and decide not to grant the Tenant’s payment plan. The order contains sufficient reasons that explain the member’s decision.
7. The request to review seeks to revisit the member’s decision. This is not the purpose of the review process. The hearing order demonstrates the hearing member considered the Tenant’s evidence and submissions. Since the member was in the best position to consider the parties’ credibility, and because the order contains sufficient reasons, I would not interfere with the hearing member’s assessment of the evidence and decision.
8. The fact that the Tenant was self represented at the hearing does not amount to a serious error. The right to representation is not absolute (s.10 of the *Statutory Powers Procedure Act*). The Notice of Hearing informs tenants on their options to obtain representation or legal advice prior to the hearing and provides information to Legal Aid Ontario and Tenant Duty Counsel services. The request does not provide details of the Tenants efforts to obtain representation prior to the hearing. The record also reflects that the Tenant did not raise the lack of representation as an issue at the hearing.

It is ordered that:

1. The request to review order LTB-L-012616-22, issued on November 23, 2022, is denied.
2. The order is confirmed and remains unchanged.

December 14, 2022
Date Issued

Khalid Akram
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.