



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

**Citation:** Smart v Burns, 2022 ONLTB 13803

**Date:** 2022-12-13

**File Number:** LTB-L-069073-22-RV  
(NOL-43332-21)

**In the matter of:** Four, 48 Kirkland Street  
Kirkland Lake Ontario P2N2G4

**Between:** Wayne Smart Landlord

**And**

Sandra Burns Tenant

2022 ONLTB 13803 (CanLII)

### Review Order

**Your file has been moved to the Landlord and Tenant Board’s new case management system, the Tribunals Ontario Portal. Your new file number is LTB-L-069073-22.**

Wayne Smart (the 'Landlord') applied for an order to terminate the tenancy and evict Sandra Burns (the 'Tenant') because:

- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has wilfully caused undue damage to the premises.

This application was heard on October 25, 2021 and resolved by order NOL-43332-21 issued on November 4, 2022.

On November 15, 2022 the Tenant requested a review of the order alleging that they were not reasonably able to participate in the hearing. Interim order NOL-43332-21-RV-IN was issued the same date staying the order issued on pending the review request.

This request for review was heard in by videoconference on December 1, 2022. The Tenant attended the hearing and was represented by Cheryl Shaw. As of 9:30am, the Landlord was not present, despite being served with notice of hearing by the Board.

### Determinations:

### Review Request:

1. The application was originally heard on October 25, 2021. Notice of hearing was issued to the parties on August 26, 2021.

2. The Tenant testified that she did not receive notice of hearing for October 25, 2021, hearing date and as such, was not reasonably able to participate in the hearing.
3. In review of the Board's records, the notice of hearing was served to the Tenant via regular letter mail and returned to the Board as undeliverable on September 8, 2021.
4. I am satisfied that the Tenant did not receive notice of hearing for the October 25, 2021 hearing date and as such, was not reasonably able to participate in the hearing. Therefore, the matter was heard de novo (anew).

L2 Application:

5. Since the Landlord did not appear at the hearing to support their application, I find that this application has been abandoned.

**It is ordered that:**

1. The request to review order NOL-43332-21 issued on November 4, 2022 is granted. The order is cancelled and replaced with this order.
2. The Landlord's application is dismissed as abandoned.

**December 6, 2022**  
**Date Issued**

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Fabio Quattrociocchi  
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.