



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

Citation: Kenlar Investments Inc v Sheppard, 2022 ONLTB 14301

Date: 2022-12-12

File Number: LTB-L-012294-22-RV

In the matter of: 102, 161 AMHERST DR
AMHERSTVIEW ON K7N1V3

Between: Kenlar Investments Inc Landlord

And

Philip Sheppard Tenant

Review Order

Kenlar Investments Inc (the 'Landlord') applied for an order to terminate the tenancy and evict Philip Sheppard (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-012294-22 issued on November 15, 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 Tenant's request alleges the order contains a serious error.
2. 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.
3. The Tenant says he did not receive a copy of the order until it was given to the Tenant along with a Sheriff's notice to vacate. The request asks for more time to pay the arrears or move out. In the request, the Tenant provides an explanation of why rent was not paid and says he is willing to agree to a reasonable payment plan.
4. I am not satisfied that receipt of the order in the manner the Tenant alleges constitutes a serious error in the order or in the proceedings because it would not potentially change the result of the order or proceedings. I have turned my mind to the issue of whether the Tenant's ability to void the order was impacted by not receiving a copy of the order until the Sheriff posted notice. In my view, any impact on the Tenant's ability to void is minimal. I say this because the record, the order, and the current request do not indicate that the Tenant likely has the means to void the order and continue the tenancy.

2022 ONLTB 14301 (CanLII)



5. The above is further confirmed by this request to review, wherein the Tenant requests a payment plan or more time to move which was specifically considered by the hearing member in the order. At paragraph 11, the hearing member considered the Tenant's proposal of \$100.00 in addition to the monthly rent or 3 months delay in eviction. The member determined that it would be unfair to impose a 2-years and 4-months payment plan or grant further delay.
6. While the Tenant clearly disagrees with the hearing member's decision to deny relief from eviction, the purpose of the review is not to provide the parties with an opportunity to relitigate the issues. I would not interfere with the assessment of the evidence by the hearing member, who had the opportunity of hearing the evidence in its totality.
7. The hearing member's decision to deny relief was a reasonable exercise of discretion based in the evidence before the member. It is therefore entitled to deference.

It is ordered that:

1. The request to review order LTB-L-012294-22, issued on November 15, 2022, is denied.
2. The order is confirmed and remains unchanged.

December 12, 2022
Date Issued

Khalid Akram
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.