



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

Citation: LATIFF ABBASI v KURDI, 2022 ONLTB 14165

Date: 2022-12-12

File Number: LTB-L-055460-22-RV

In the matter of: 37 LILLINGTON AVENUE
SCARBOROUGH ON M1N3K4

Between: ABDUL LATIFF ABBASI Landlord

And

KATIA KURDI Tenants
KHALID KURDI

Review Order

ABDUL LATIFF ABBASI (the 'Landlord') applied for an order requiring KATIA KURDI, and KHALID KURDI (the 'Tenants') to pay the rent that the Tenants owes.

This application was resolved by order LTB-L-055460-22 issued on November 4, 2022.

On November 8, 2022, the Landlord requested a review of the order.

On November 14, 2022 interim order LTB-L-055460-22-RV-IN was issued.

This application was heard in by videoconference on December 5, 2022.

Only the Landlord's Representative and the Landlord's witness, Raza Khan attended the hearing.

Determinations:

Review:

1. On the basis of the submissions made in the request, I am satisfied the Landlord was not reasonably able to participate in the proceeding.
2. The review is granted as the Landlord did not have an adequate opportunity to participate in the hearing held on October 27, 2022.
3. The Board mailed the Notice of Hearing to the Landlord's Representative on October 17, 2022 who received it from Canada Post on October 27, 2022, after the hearing already took place. Although section 191(2) deems a notice given by mail to have been given on the fifth day after mailing, which in this case is October 22, 2022, I am satisfied it did not come to the Representative's attention in time. Even if it had, the Representative would

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have had a cause to seek an adjournment given insufficient time to prepare, as the Board Rules of Procedures require at least 10 days from the date the Notice is deemed received.

L9 Application:

1. The written tenancy agreement satisfies me there's a landlord and tenant relationship.
2. The tenancy terminated by order TEL-21688-22 issued on May 3, 2022.
3. The application was amended seeking arrears from June 1, 2021, not March 1, 2021 given order TEL-13214-20 issued on June 2, 2021 which covered the non payment of rent for the period ending May 31, 2021. There is no prejudice to the Tenant to allow the amendment to the application.
4. The Tenant vacated the rental unit on August 10, 2022.
5. The Tenant was in possession of the rental unit when the application was filed on June 13, 2022.
6. There was a material change from the initial tenancy agreement to include the basement which increased the rent charge by \$700.00. The lawful rent of \$3,750.00 identified on the L9 application is correct.
7. The Tenants have not paid rent totalling \$55,607.88 for the period from June 1, 2021 to August 10, 2022.
8. The amount the Tenants owe the Landlord is greater than the Board's monetary jurisdiction of \$35,000.00 as set out in section 207 of the *Residential Tenancies Act, 2006* (the 'Act'). The Landlord has chosen not to proceed at Superior Court for the full amount and is aware that by proceeding at the Board any claim the Landlord may have for arrears in excess of \$35,000.00 is extinguished.
9. The Tenants also owe the Landlord \$201.00 for the cost of the application.

It is ordered that:

1. Order LTB-L-055460-22 issued on November 4, 2022 is cancelled.
2. The Tenants shall pay to the Landlord \$35,000.00, which represents the amount of rent owing to August 10, 2022.
3. The Tenants shall also pay to the Landlord \$201.00 for the cost of filing the application.
4. If the Tenants do not pay the Landlord the full amount owing* on or before December 23, 2022, the Tenants will start to owe interest. This will be simple interest calculated from December 24, 2022 at 4.00% annually on the balance outstanding.

December 12, 2022
Date Issued

Sandra Macchione
, 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.

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