



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

Citation: Salford Investments Ltd. v Evans, 2022 ONLTB 12931

Date: 2022-11-28

File Number: LTB-L-004701-22-RV

In the matter of: 207, 33 ISABELLA ST
TORONTO ON M4Y2P7

Between: Salford Investments Ltd. Landlord

And

Tyler Evans Tenant

Review Order

Salford Investments Ltd. (the 'Landlord') applied for an order to terminate the tenancy and evict Tyler Evans (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-004701-22 issued on October 7, 2022.

On November 1, 2022, the Tenant requested a review of the order.

On November 2, 2022 interim order LTB-L-004701-22-RV-IN was issued, staying the order issued on October 7, 2022.

This application was heard in by videoconference on November 21, 2022.

The Landlord's Representative, David Ciobotaru and the Tenant attended the hearing. Lona Stasi and Randy Bungyan also attended as witnesses for the Landlord. The Tenant spoke to Tenant Duty Counsel before the hearing commenced.

Determinations:

1. The Tenant stated he did not receive the Notice of hearing held on August 2, 2022. The Tenant denied having communicated with the Landlord knowledge of the hearing and stated he called the Board several times and he was told by staff to ignore the possibility of a hearing unless he receives a Notice.
2. Based of the evidence, 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 held on August 2, 2022.
3. The Board's record shows the Notice of Hearing was mailed to the Tenant on July 5, 2022. That mail was not returned by Canada Post as undelivered. Pursuant to subsection 191(3)

2022 ONLTB 12931 (CanLII)

of the *Residential Tenancies Act, 2006*, (the 'Act') the Notice is deemed to have been given 5 days after mailing.

4. On July 26, 2022 the Tenant at first disputes receiving the letter from the Landlord's Representative dated July 22, 2022 but he later acknowledged receipt of the disclosure given July 26, 2022. The material included a reference of 'an upcoming hearing' and he provided no reasonable explanation for not contacting the Board to obtain further information about the Hearing. He chose to ignore the content of the information to contact the Representative, instead he stated he chose to reach out to LS. I doubt that LS did not inform of the hearing in that conversation. LS testified she had conversation and reminded the Tenant of the hearing one hour before the hearing started. Although, the Tenant denied having this conversation, I find on a balance of probability, LS credible, having followed due legal process of providing legal notice, filing an application, attempting payment plan discussions on July 7, 2022, sending a letter with the update L1/L9 arrears on July 26, 2022.
5. The Tenant stated he contacted the Board several times and was told by the Board staff to ignore a scheduled proceeding if he didn't receive a Notice by mail. The Board staff would not ignore an enquiry related to the scheduling of hearing and at minimum would have provided that information to the Tenant over the phone. The Tenant failed to provide dates he contacted the Board nor was there any record on the Board's system to corroborate the Tenant's testimony. The Tenant was not credible.
6. The Tenant does he dispute the calculated arrears determined in the order issued on October 7 2022 and agrees he hasn't paid anything towards rent after the application was filed on January 26, 2022 or after the review was filed on November 1, 2022 (11 months of no payment). Given the Tenant's payment history and the amount of arrears owing, I find it more likely than not, that the Tenant filed this review in bad faith to delay the process of eviction. This is an abuse of process.
7. Given the totality of the evidence, I find the Tenant received adequate Notice of the hearing and there was no serious error in procedure.
8. As stated by the Court in *Q Res IV Operating CP Inc. v. Berezovska* 2017 ONSC 5541, "[I]f parties are not diligent in dealing with legal proceedings then they cannot demand that a Tribunal waste its resources by rehearing matters a second time. To allow this would undermine the ability of the administration of justice to deliver timely cost-effective and final orders".

It is ordered that:

1. The request to review order LTB-L-004701-22 issued on October 7, 2022 is denied. The order is confirmed and remains unchanged.
2. The interim order issued on November 2, 2022 is cancelled. The stay of order LTB-L-004701-22 is lifted immediately.

November 28, 2022
Date Issued

Sandra Macchione
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.