



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

**Citation:** Dowidar v Wotherspoon, 2022 ONLTB 12909

**Date:** 2022-11-28

**File Number:** LTB-L-006900-22-RV

**In the matter of:** , 619 GLOUCESTER ST N  
CORNWALL ON K6H3X7

**Between:** Omar Dowidar Landlords  
Randa Ibrahi,  
Randa Ibrahim

**And**

Anne Wotherspoon Tenant

### Review Order

Omar Dowidar, Randa Ibrahim, and Randa Ibrahim (the 'Landlords') applied for an order to terminate the tenancy and evict Anne Wotherspoon (the 'Tenant') because:

- the Landlords in good faith requires possession of the rental unit for the purpose of residential occupation for at least one year.

The Landlords also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was resolved by order LTB-L-006900-22 issued on October 14, 2022.

On October 26, 2022, the Tenant requested a review of the order.

On October 27, 2022 interim order LTB-L-006900-22-RV-IN was issued, staying the order issued on October 14, 2022.

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

Only the Landlord, Omar Dowidar and their Representative, Gregg Foss attended the hearing.

### Determinations:

1. Since the Tenant did not attend to support their review request, I find the request abandoned.

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 or that the Tenant was not reasonably able to participate in the proceeding held on September 6, 2022.

#### Abuse of Process

1. The Tenant was properly served with the Notice of the Hearing held on September 6, 2022. The Board's record shows the Notice of Hearing was both mailed by Canada Post and emailed to the Tenant's email address on November 2, 2022 at 12:24 p.m. I'm satisfied the Tenant was served with notice of this review hearing. The Tenant was also emailed the interim order on October 27, 2022 at 9:38 am to the same email address the Notice was given. None of that mail bounced back or was returned by Canada Post as undelivered.
2. The Landlord testified the Tenant never disclosed or requested accommodation due to a disability and he has no information related to any restriction that may have impeded the Tenant from attending this hearing. The reasons set out in the Tenant's review request confirms receipt of the original Notice of hearing but there was a problem with accessing the conference on September 6 2022 due to her visual impairment. Restrictions due to disability are vague and it's unclear how restrictions impacted her ability to participate and join the virtual hearing on September 6, 2022 by phone since as she managed to use a phone and call the Board, as claimed on the review request, that same day on September 6, 2022.
3. The Tenant's request was deferred to the end of my block to allow additional time for the Tenant to join but she failed to attend. There was no information in the Board's file that the Tenant attempted to reschedule the review hearing or tried to obtain the consent of the Landlord to adjourn the hearing to another date.
4. The interim order issued on October 27, 2022 informs the Tenant costs may be considered if a finding of an abuse of process is made. In accordance with Board Rule 23.4 and pursuant to section 204(3) of the *Residential Tenancies Act, 2006* (the 'Act'), I find the Tenant has abused the process and caused undue delay and expenses. An order for the Landlord's costs are appropriate due to the Tenant's unreasonable conduct having failed to attend the hearing to support her request. She wasted the Landlord's and the Board's time and resources.
5. The Landlord incurred unnecessary legal costs and since the Landlord and his representative waited 2 hours for the Tenant to join, they are entitled to \$200.00 or (\$100.00 per hour) in accordance with Board's Rule 23.4 on Costs.

#### It is ordered that:

1. On or before December 15, 2022, the Tenant shall pay the Landlord their costs of \$200.00.

2. If the Tenant does not pay in accordance with paragraph one hereof, the amount outstanding will become immediately due. The Landlord has the right to collect this amount at any time.
3. The request to review order LTB-L-006900-22 issued on October 14, 2022 is denied. The order is confirmed and remains unchanged.
4. The interim order issued on October 27, 2022 is cancelled. The stay of order LTB-L-006900-22 is lifted immediately.

**November 28, 2022**

**Date Issued**

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Sandra Macchione

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.