



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

Citation: Capreit 2 Limited Partnership v Z'danov, 2022 ONLTB 12955

Date: 2022-11-22

File Number: LTB-L-000936-22-RV

In the matter of: 408, 5 TANGREEN CRT
TORONTO ON M2M3Z1

Between: Capreit 2 Limited Partnership Landlord

And

Gisela Pena Leyva, Igor Z'danov Tenants

Review Order

Capreit 2 Limited Partnership (the 'Landlord') applied for an order to terminate the tenancy and evict Gisela Pena Leyva, Igor Z'danov (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was resolved by order LTB-L-000936-22, issued on November 9, 2022.

On November 18, 2022, the Tenant, Gisela Pena Leyva, requested a review of the order, alleging that the order contains serious errors.

A preliminary review was completed without a hearing.

Determinations:

1. After the merits hearing of the Landlord's application on October 12, 2022, the hearing Member issued a standard termination order.
2. The Tenant, G. Pena Levya (GPL) requests a review. She ticked the box alleging that the order contains serious errors. However, in the box where the party is asked to explain why the order should be reviewed, GPL has not alleged any serious errors in the order, except to make a general statement that "The order fail (sic) to comply with the rules of natural justice for many reasons." GPL states that the order is inhumane because it does not provide her with enough time to move out.
3. GPL has failed to allege any serious error in the order for the reasons that follow.
4. The hearing Member considered GPL's evidence about a proposed payment plan, as well as her personal circumstances. GPL did not dispute the amount of arrears that were owed, which were substantial, approaching \$18,000.00 on the date of the hearing. The hearing Member considered that GPL's proposed payment plan would take almost eight years to pay off the arrears, and he determined that that was not a reasonable amount of

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time to pay off the arrears. Consequently, the hearing Member issued a voidable termination order. The Tenants had the option of voiding the order.

5. The amount of time provided to Tenants to void a termination order for arrears of rent is discretionary, based on a consideration of the amount of arrears, how long rent has gone unpaid, the prejudice to the Landlord and the circumstances of the Tenants. It is not abnormal for the Board to provide 11 days for Tenants to void a termination order, especially when the arrears are substantial, and there has been little to no rent paid for a number of months. In this case there had been no rent paid for a period of about 10 months.
6. The Board will not interfere with the proper exercise of discretion by a Member (Guideline #8 of the *Landlord and Tenant Board Interpretation Guidelines*). The Member's exercise of discretion was reasonable. The Tenants' circumstances are not paramount. The Member balanced the interests of both parties, and therefore, the Member's decision is entitled to deference (*Caputo v. Newberg* 2009 CanLII 32908 (ON SCDC)).
7. 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.

It is ordered that:

1. The request to review order LTB-L-000936-22 issued on November 9, 2022, is denied. The order is confirmed and remains unchanged.

November 22, 2022

Date Issued

Nancy Morris

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.