



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

**Citation:** Marchand v Snider, 2022 ONLTB 12642

**Date:** 2022-11-17

**File Number:** LTB-L-046736-22-RV

**In the matter of:** 47 Haddington St  
Cambridge Ontario N1R3P8

**Between:** Denis Marchand Landlord

**And**

Jaclyn Smith, Kevin Snider Tenants

### Review Order

Denis Marchand (the ‘Landlord’) applied for an order to terminate the tenancy and evict Jaclyn Smith and Kevin Snider (the ‘Tenants’) because the Tenants did not pay the rent the Tenants owe.

This application was resolved by order LTB-L-046736-22, issued on October 26, 2022. The parties did not attend the October 11, 2022 hearing. In its October 26, 2022 order, the Board determined that the Landlord abandoned the application.

On November 16, 2022, the Landlord, the requested a review of the order.

A preliminary review of the request was completed without a hearing.

### Determinations:

1. 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 Landlord was not reasonably able to participate in the October 11, 2022 hearing.
2. The Landlord submits that he did not attend the October 11, 2022 hearing because he was under the belief that the hearing had been canceled. The Landlord explains that someone impersonated the Landlord and submitted a request to withdraw the application on September 21, 2022. The Landlord writes: “This triggered a communication to me that the hearing was dismissed and hence I was mislead [*sic.*] to believe that the hearing would not take place as planned. I also thought that we would be assigned a new hearing date by the Board after the situation was brought to the attention to the Board”.
3. The Landlord, however, did not include with the review request a copy of the fraudulent email message asking to withdraw the application. The Landlord also did not include the alleged “communication... that the hearing was dismissed”. A review of the Board’s application record does not support the Landlord’s submission that someone asked the

2022 ONLTB 12642 (CanLII)

Board's consent to withdraw the Landlord's application. There is, of course, no communication in the Board's application record advising parties that the application was dismissed before the October 11, 2022 hearing date.

4. The Landlord's failure to provide supporting materials that are, or should be, in the Landlord's possession leads is of concern. The Landlord, for example, would have received the alleged communication dismissing his application before the October 11, 2022 hearing date. I draw a negative inference from the Landlord's failure to include that communication with this review request.
5. I also find the Landlord's explanation for failing to attend the hearing is not rational. The Landlord asserts being aware of fraudulent email messages to the Board, asking to withdraw the Landlord's application. The Landlord further asserts that he received a dismissal notice based on those alleged email messages. The Landlord submits that he nevertheless relied on the fraudulent notice and elected not to attend the October 11, 2022 Board hearing.
6. I find that the Landlord's explanation for failing to attend the October 11, 2022 hearing is not reasonable. Taking the explanation at face value, no reasonable person in the situation the Landlord describes would believe their Board hearing had been dismissed before the hearing date.
7. The Landlord therefore did not show that he was not reasonably able to participate in the October 11, 2022 hearing, or that he was otherwise denied procedural fairness. The Landlord's request to review the October 26, 2022 order must accordingly be denied.

**It is ordered that:**

1. The request to review order LTB-L-046736-22, issued on October 26, 2022, is denied. The order is confirmed and remains unchanged.

**November 17, 2022**

**Date Issued**

15 Grosvenor Street, Ground Floor  
Toronto ON M7A 2G6

\_\_\_\_\_  
Harry Cho

Member, Landlord and Tenant Board

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.

