



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

Citation: London & Middlesex Community Housing v Knight, 2022 ONLTB 11976

Date: 2022-11-14

File Number: LTB-L-005461-22-RV

In the matter of: 614, 580 DUNDAS ST
LONDON ON N6B1W9

Between: London & Middlesex Community Housing Landlord

And

Tyler Knight Tenant

Review Order

London & Middlesex Community Housing (the 'Landlord') applied for an order to terminate the tenancy and evict Tyler Knight (the 'Tenant') because:

- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant.

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

This application was resolved by order LTB-L-005461-22 issued on October 24, 2022.

On November 9, 2022, the Tenant requested a review of the order, alleging that they were not reasonably able to participate in the hearing held on October 3, 2022, and also alleging that the order contains serious errors.

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

Determinations:

- The Tenant did not attend the merits hearing held on October 3, 2022. An eviction order was issued on October 24, 2022, for termination of the tenancy on November 4, 2022.
- The Tenant filed the request for a review, ticking the boxes alleging that they were not reasonably able to participate, and the box alleging that the order contains serious errors.
- In the box requesting an explanation in detail from the Tenant why the order contains serious errors, he provides evidence that he could have provided at the hearing had he attended. He does not allege anything that constitutes a serious error in the order.

4. In the box requesting an explanation in detail why the Tenant was not reasonably able to participate, the Tenant states that he does not have a phone or a computer, and he was unable to access any for the time of the hearing.
5. Section 209(2) of the *Residential Tenancies Act, 2006* (the 'Act') provides that the Board has the power to review a decision or order "if a party to a proceeding was not reasonably able to participate in the proceeding."
6. The Board's Interpretation Guideline #8 states that the LTB will refuse requests where the requestor's absence was the result of negligence or if it finds no reasonable explanation why he or she was not present in the hearing room when the application was decided.
7. I find that the Tenant's explanation does not demonstrate that he was not reasonably able to participate in the hearing, for the reasons that follow.
8. The notice of hearing clearly states "If you cannot participate in the hearing, you should give someone written permission to represent you and to participate on your behalf and email it to the Board in advance," and "If you are the Tenant and you do not attend the hearing or send a representative, the LTB may hold the hearing without you and make a decision based on only the Landlord's evidence."
9. The Tenant has not alleged that he was unaware of the hearing, or that he did not receive a notice of hearing with the clear directions cited above. He knew about the hearing, yet he failed to send a representative, and failed to notify the Board that he did not have a phone or a computer. If notified in advance, the Board is able to arrange for Tenants in his situation to attend the hearing.
10. Consequently, I find that the Tenant has not provided a reasonable explanation for why he was not present when the application was decided. He was reasonably able to participate had he sent a representative to ask for an adjournment, or had he informed the Board in advance. The Tenant's failure to attend was due to negligence. His request for a review will be denied.
11. 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.

It is ordered that:

1. The request to review order LTB-L-005461-22 issued on October 24, 2022, is denied. The order is confirmed and remains unchanged.

November 14, 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.