



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

Citation: Melvin Apartments Inc v Robertson, 2022 ONLTB 11617

Date: 2022-11-10

File Number: LTB-L-013670-22-RV

In the matter of: 1801, 221 MELVIN AVE
HAMILTON ON L8H2K1

Between: Melvin Apartments Inc Landlord

And

Robert Robertson Tenant

Review Order

Melvin Apartments Inc (the 'Landlord') applied for an order to terminate the tenancy and evict Robert Robertson (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-013670-22 issued on September 16, 2022 based on a hearing that was held on September 14, 2022 where neither of the parties were in attendance.

On September 26, 2022, the Landlord requested a review of the order.

On October 3, 2022, interim order LTB-L-013670-22-RV-IN was issued, staying the order issued on September 16, 2022.

This request was heard in by videoconference on November 7, 2022.

Only the Landlord attended the hearing when the matter was called at 10:28am. The Landlord was represented by Adam Hamdani.

Determinations:

REQUEST TO REVIEW

1. The Landlord submits that they were not reasonably able to participate at the hearing on September 14, 2022 as the notice of hearing went into the spam folder for both the Landlord and their representative.
2. The Landlord's representative submits that on the day of the hearing, he was in attendance for other matters in different rooms and that had he received the notice of hearing for this matter, he would have attended as the parties had reached an agreement

for a repayment plan and there was no intention by the Landlord to abandon their application where significant arrears were outstanding.

3. The Board's records show that emails containing the notice of hearing and the standard package sent with this document was sent to Landlord on August 19, 2022.
4. The Landlord submits that they have filed many applications before the Board in the past and have not encountered such an issue.

ANALYSIS

5. In *King-Winton v. Doverhold Investments Ltd., 2008 CanLII 60708 (ON SCDC)*, the Courts found, at paragraph 7,

Being reasonably able to participate in the proceeding must be interpreted broadly, natural justice requires no less. The tenant has never delayed in pursuing her remedies.

6. I find that the Landlord was not reasonably able to participate at the hearing on September 14, 2020, as they did not receive a Notice of Hearing to their inbox.
7. The Landlord filed an application with the Board to obtain a remedy for the issue of non-payment of rent, and I find it unlikely that the Landlord would knowingly or intentionally abandon an application for rent arrears when there are significant arrears outstanding or where the parties have reached an agreement.
8. As such, the Landlord's request to review is granted.

L1 APPLICATION

9. The Tenant has not paid the total rent the Tenant was required to pay for the period from December 2021 to January 2022. Because of the arrears, the Landlord served a Notice of Termination effective January 24, 2022.
10. The Tenant is in possession of the rental unit.
11. The lawful monthly rent is \$961.79 and is due on the first of the month.
12. The Tenant paid \$5,221.00 since the application was filed.
13. The arrears and costs owing to November 30, 2022 total \$3,906.39.
14. The Landlord seeks an order with the terms of the repayment plan to which the parties have agreed.
15. I find that the Landlord's request only benefits the Tenant as it provides a period greater than 11 days to pay the arrears. As such, the request is granted.
16. An order shall issue requiring the Tenant to pay the rent on time and \$500.00 on the 15th of each month for the next eight months.

17. This order contains all of the reasons for the decision within it. No further reasons shall be issued.

It is ordered that:

1. The request to review order LTB-L-013670-22 issued on September 16, 2022 is granted and replaced with the following order.
2. The interim order issued on October 3, 2022 is cancelled.
3. The arrears and costs owing to November 30, 2022 total \$3,906.39.
4. The Tenant shall pay to the Landlord \$3,906.39 as follows:
 - a) \$500.00 on or before December 15, 2022;
 - b) \$500.00 on or before January 16, 2023;
 - c) \$500.00 on or before February 15, 2023;
 - d) \$500.00 on or before March 15, 2023;
 - e) \$500.00 on or before April 15, 2023;
 - f) \$500.00 on or before May 15, 2023;
 - g) \$500.00 on or before June 15, 2023; and
 - h) \$406.39 on or before July 15, 2023.
5. The Tenant shall also pay to the Landlord the lawful monthly rent as it comes due in full and no later than the first day of each month commencing December 2022 to July 2023.
6. **If the Tenant fails to make any one of the payments in accordance with this order, the Landlord may, without notice to the Tenant and within 30 days of the breach, apply to the Board pursuant to section 78 of the Act for an order terminating the tenancy and evicting the Tenant and requiring that the Tenant pay any new arrears, NSF fees and related charges that became owing after November 30, 2022.**

November 10, 2022
Date Issued

Sonia Anwar-Ali
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.