



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

Citation: Wilstar Management Ltd. v Nadeau, 2022 ONLTB 11383

Date: 2022-11-04

File Number: LTB-L-019425-22-RV

In the matter of: 2008, 50 CORDOVA AVE
ETOBICOKE ON M9A4X6

Between: Wilstar Management Ltd. Landlord

And

Joan Nadeau Tenant

Review Order

Wilstar Management Ltd. (the 'Landlord') applied for an order to terminate the tenancy and evict Joan Nadeau (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-019425-22, issued on November 2, 2022. The Landlord's application was heard at 9:45AM on October 24, 2022. Only the Landlord's legal representative Bryan Rubin attended the hearing.

On November 3, 2022, the Tenant requested a review of the order.

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

Determinations:

1. On the basis of the submissions made in the request, I am not satisfied that the Tenant was not reasonably able to participate in the October 24, 2022 hearing, or that there is a serious error in the order or that a serious error occurred in the proceedings.
2. The Tenant agrees that they received the Board's notice of hearing, which the Board mailed to the Tenant on October 2, 2022. The Tenant, however, did not check their mailbox and was unaware of the notice until after the hearing date. Although the Tenant writes that they did not check their mailbox until "the last week of Ontario", I infer that the Tenant intended to write "the last week of October".
3. Parties to a Board proceeding are required to exercise reasonable diligence to be aware of and to participate in the proceeding. This includes checking one's mail for important correspondence from the Board, such as the Board's notice of hearing. For example, in the court case *Q Res IV Operating Gp Inc. v. Berezovs'ka*, [2017] O.J. No. 4863 (Div. Ct.), the Divisional Court uphold a Board order that found that the Landlord did not exercise

appropriate diligence when its office staff failed to monitor and open incoming mail from the Board, including the Board's notice of hearing.

4. The facts in this present case are similar to the facts in *Q Res IV Operating Gp Inc. v. Berezovs'ka*. Following the Divisional Court's reasons in that decision, I must conclude that the Tenant in this case did not exercise appropriate diligence when the Tenant failed to check their incoming mail. The Tenant has therefore not demonstrated that they were not reasonably able to participate in the October 24, 2022 hearing.
5. Since the Tenant was reasonably able to participate in the hearing, I find that it is not appropriate to consider the Tenant's review submissions about alleged rental payments to the Landlord. The Tenant's opportunity to present such evidence was at the October 24, 2022 hearing.
6. The Tenant's request to review the November 2, 2022 order must therefore be denied.

It is ordered that:

1. The request to review order LTB-L-019425-22, issued on November 2, 2022, is denied. The order is confirmed and remains unchanged.

November 4, 2022

Date Issued

Harry Cho

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.

