



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

File Number: LTB-L-000366-22-RV

In the matter of: Main Floor Unit, 272 WINONA DR Toronto
ON M6C3S7

Between: Evan Trestan Landlord

And

Meghan Cole Tenant

Review Order

Evan Trestan, Shay Schwartzman (the 'Landlord') applied for an order to terminate the tenancy and evict Meghan Cole (the 'Tenant') because the Landlord intends to demolish the rental unit.

This application was resolved by order LTB-L-000366-22 issued on July 6, 2022.

On August 5, 2022, the Landlord requested a review of the order and that the order be stayed until the request to review the order is resolved.

On August 9, 2022, interim order LTB-L-000366-22-RV-IN was issued, staying the order issued on July 6, 2022.

This application was heard by videoconference on September 20, 2022. The Landlord, the Landlord's Legal Representative, B. Lue Sang and the Tenant attended the hearing.

Determinations:

1. The Landlord alleged that order LTB-L-000366-22 which dismissed the Landlord's application following the Landlord's request to withdraw it, contains a serious error.

2. In support of the request to review the order, the Landlord stated that the Member at the hearing, relying on a simplistic interpretation of the Act, intended to dismiss the application because in the Notice to End your Tenancy (N13) served on the Tenant, the Landlord indicated that he intended to demolish the unit, but at the hearing stated that he planned to renovate the unit. Asked if he would dismiss the application without prejudice, the Member did not answer the question directly hence the Landlord felt it prudent to withdraw the application.

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3. The Landlord further stated that the Member's question using the word renovation misled the Landlord into stating that he intended to renovate the unit when in fact, the plan is to demolish the unit.
4. The Landlord provided a copy of the transcript of the recording of the proceeding which they relied on as evidence.

Analysis

5. The Landlord and Tenant Board Interpretation Guideline 8 states that "*The LTB will only exercise its discretion to grant a review when it is satisfied the order contains a serious error, a serious error occurred in the proceeding or the requestor was not reasonably able to participate in the proceeding*".
6. The Landlord filed this request alleging there is a serious error in the order which simply states that the Landlord sought to withdraw the application, and as a result, it was dismissed. The Landlord stated that the Member's choice of words caused him to testify that he intended to renovate the unit when, in accordance with the notice, he intends to demolish the unit.
7. A review of the transcript shows one of the first questions the Member asked the Landlord was what his plans for the rental unit was without using the words renovate or renovation and the Landlord responded that the plan was to renovate the property. The Member goes on to ask other questions and concluded that the Landlord's application would be dismissed and was not persuaded by the arguments from the Landlord's Legal Representative.
8. The Landlord subsequently asked the Board if the application would be dismissed without prejudice and the Member responded that he would consider that when he issues the order, at which point the Landlord decided to withdraw the application.
9. Based on the foregoing, I find that the order does not contain a serious error. The Member made his decision at the hearing, and the Landlord who was represented had a right to

request a review of the Member's decision if they believed it contained a serious error. However, for the Landlord to choose to withdraw the application and by so doing mislead the Board as that was clearly not the intention, and afterwards file a request alleging that the order contains a serious error, borders on abuse of process.

10. The Landlord by filing this request is improperly using the judicial process and undermining the effective administration of justice. Under Rule A8.1 of the Board's Rules of Procedure, '*The tribunal may make such orders or give such directions in proceedings before it as it considers proper to prevent abuse of its processes*'. In this case, the Landlord's request will be denied as I am not satisfied that the order, which contains the outcome chosen by the Landlord, contains a serious error.

It is ordered that:

1. The request to review order LTB-L-000366-22 issued on July 6, 2022, is denied. The order is confirmed and remains unchanged.

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2. The interim order issued on August 9, 2022, is cancelled. The stay of order LTB-L-000366-22 is lifted.

November 2, 2022

Date Issued

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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.

