



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

Citation: Kingston & Frontenac Housing Corporation v Peyman, 2022 ONLTB 9884

Date: 2022-10-25

File Number: LTB-L-008473-22-RV

In the matter of: 212, 381 BAGOT ST
KINGSTON ON K7K6B7

Between: Kingston & Frontenac Housing Corporation Landlord

And

Haley Peyman Tenant

Review Order

Kingston & Frontenac Housing Corporation (the 'Landlord') applied for an order to terminate the tenancy and evict Haley Peyman (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-008473-22 issued on August 30, 2022.

On September 16, 2022, the Tenant requested a review of the order.

On September 19, 2022 interim order LTB-L-008473-22-RV-IN was issued, staying the order issued on August 30, 2022.

This application was heard in by videoconference on October 13, 2022.

The Landlord's Representative, Nicole Diak, the Tenant and the Tenant's Representative, Dara Sanders attended the hearing. Landlord's Witness Kelly Vallier also attended the hearing.

Determinations:

1. The Tenant testified she was not able to attend the hearing because she didn't receive the Notice of the hearing and only became aware of the order when the Sheriff gave her notice. The Tenant also disputes the amount of arrears owing contained in the order issued on August 30, 2022.
2. 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 and that the Tenant was not reasonably able to participate in the proceeding.
3. Pursuant to section 191(2) of the *Residential Tenancies Act, 2006 (the 'Act')*, a notice is "deemed validly given if it is proven that its contents actually came to the

attention of the person from whom it was intended within the required time period". Section 191(3) of the Act also states a notice given by a mail shall be deemed to have been given on the fifth day after mailing.

4. I considered the Tenant's claim that her mailbox was broken into twice but that last incident occurred in April 2022 and would not have interfered with delivery of the Notice the Board mailed on July 28, 2022. There was not enough evidence that someone tampered with her mail. It is acknowledged, the Superintendent has a key to the mailbox but there's no reasonable explanation or evidence to suggest that they tampered or had cause to tamper with her mail.
5. The Board also emailed the Notice on July 13, 2022 to the heyley-peyman@hotmail.com which the Tenant stated was incorrect and *never* her email address. I find the Tenant not credible since the Landlord provided a form which the Tenant completed and signed which identified this email. The address the Tenant provided on the Form contradicted the Tenant's testimony. The Tenant confirmed it was her writing, signature and the email address she provided to the Landlord. The Notice was mailed to the same email address the Board used to serve the Notice of hearing.
6. The Board's record also shows the Notice was mailed to the Tenant's address on July 28, 2022. That mail was not returned by Canada Post as undelivered.
7. KV also testified that on August 12, 2022 she also delivered the Notice and evidence in advance of the hearing to the Tenant by slipping it under the door of the Tenant's unit. The Tenant denied receiving that disclosure as well.
8. On a balance of probabilities, it's very unlikely that the Tenant did not receive the Notice. As such, I find she had an adequate opportunity to participate in the hearing held on August 17, 2022.
9. I considered the Tenants claim that the arrears are wrong because the Landlord incorrectly assessed her subsidy, however, I am not satisfied the order contains a serious error. The Board has no control, no authority and cannot interfere with the Landlord's internal processes of determining the Tenant's rent geared to income.
10. The Landlord is not opposed to lifting the stay and allowing the Tenant two months to find alternate accommodation.

It is ordered that:

1. The request to review order LTB-L-008473-22 issued on **August 30, 2022** is denied. The order is confirmed and remains unchanged.
2. The interim order issued on September 19, 2022 is cancelled. The stay of order LTB-L-008473-22 is lifted **December 31, 2022**.

October 25, 2022
Date Issued

Sandra Macchione
Member, Landlord and Tenant Board

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