



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

**Citation:** Skinner v Kohli, 2022 ONLTB 9693

**Date:** 2022-10-20

**File Number:** LTB-L-012274-22-RV

**In the matter of:** 1018, 30 SHORE BREEZE DR  
ETOBICOKE ON M8V0J1

**Between:** Wayne Skinner Landlord

**And**

Vikas Kohli Tenant

### Review Order

Wayne Skinner (the 'Landlord') applied for an order to terminate the tenancy and evict Vikas Kohli (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-012274-22 issued on September 20, 2022.

On October 19, 2022, the Tenant requested a review of the order alleging that they were not reasonably able to participate in the hearing held on September 12, 2022.

### Determinations:

1. The Tenant did not attend the hearing held on September 12, 2022. The Tenant sent a representative to the hearing that day to ask for an adjournment. The adjournment was denied, and the hearing proceeded. After the merits hearing, the hearing Member issued a standard termination order.
2. The Tenant filed their request for a review alleging that they were not reasonably able to participate in the hearing because they were obliged to attend a custody hearing in a different court on September 12, 2022.
3. The background to this matter is that prior to the hearing of September 12, 2022, the Tenant sought the consent of the Landlord to adjourn because of the custody hearing. There is evidence in writing that the Landlord said they would consent to the adjournment as long as the Landlord was protected from further loss, that is, if the Tenant would pay the August 2022 rent, and the rent that came due after that time. The Tenant did not consent to the condition, and they submitted a request to reschedule to the Board without consent from the Landlord.
4. The hearing took place before the Tenant had received a decision to the request to reschedule. The Tenant's representative asked for an adjournment at the hearing, and it was denied.

5. The hearing Member considered the evidence, including the evidence that the Tenant was obliged to attend another court on the day of the hearing, and they weighed the prejudice to the Landlord. There were almost \$23,000.00 of arrears to September 30, 2022, and the Tenant had not paid any rent for several months before that time.
6. This review request does not provide any evidence that was not already before the hearing Member with respect to the adjournment request on September 12, 2022, nor with respect to the Tenant's ability to participate in the hearing.
7. The hearing Member's decision to deny the adjournment was discretionary.
8. Consequently, it is before me to determine whether the hearing Member's decision to deny the adjournment request was reasonable. The Board will not interfere with the proper exercise of discretion by a Member (Guideline #8 of the *Landlord and Tenant Board Interpretation Guidelines*).
9. At the time of the hearing in September 2022, the Landlord had been denied by the Board at least one attempt to expedite the hearing because of the amount of the arrears, and because there were also arrears in utility payments. By the time of the hearing, the arrears were very substantial, and they were beginning to approach the jurisdictional limit of the Board. In addition, the Landlord had said they would consent to reschedule the hearing, as long as the Tenant started paying some rent, but the Tenant refused. The Tenant was aware by the date of the hearing that the Board had not yet granted the request to reschedule.
10. The Tenant alleges that they "could not be in two places at once". However, the Tenant had a representative at the hearing, and that representative could have alerted the Tenant by phone of the exact time of the hearing, and they could have taken a few minutes to phone in to the hearing and could have, in effect, been in two places at once. The Tenant was well aware of the importance of the hearing to their continued tenancy. In seeking the Landlord's consent to reschedule, the Tenant was aware that the Landlord was very concerned about the amount of arrears, and the Landlord did, in fact, make the consent conditional upon not incurring further losses. The Tenant refused to agree to pay anything at all, preferring to take their chances with a request to reschedule without consent before the Board. When that did not succeed, the Tenant attempted an adjournment request. When that did not succeed, the Tenant filed a request for a review based on the exact same circumstances as those contained in the request to reschedule and the request for an adjournment.
11. Based on all the circumstances disclosed above, the substantial amount of arrears, and the Tenant's refusal to pay any rent at all, I find that the hearing Member's denial of the adjournment was reasonable. Therefore, I find that the Tenant was reasonably able to participate, and the request to review will be denied.
12. 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-012274-22 issued on September 20, 2022, is denied. The order is confirmed and remains unchanged.

**October 20, 2022**  
**Date Issued**

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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.