



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

Citation: Albrecht v Vernon, 2024 ONLTB 35488

Date: 2024-05-09

File Number: LTB-L-094455-23-RV

In the matter of: 166 ELM AVE N
LISTOWEL ON N4W3E7

Between: Raymond Albrecht

And

Nikole Vernon



Landlord

Tenant

Review Order

Raymond Albrecht (the 'Landlord') applied for an order to terminate the tenancy and evict Nikole Vernon (the 'Tenant') because the Tenant or another occupant of the rental unit has committed an illegal act or has carried out, or permitted someone to carry out an illegal trade, business or occupation in the rental unit or the residential complex involving the production of an illegal drug, the trafficking in an illegal drug or the possession of an illegal drug for the purposes of trafficking. The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was resolved by order LTB-L-094455-23 issued on April 24, 2024.

On May 7, 2024, the Legal Representative 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 there is a serious error in the order or that a serious error occurred in the proceedings.
2. The Landlord disagrees with the presiding Board Member's conclusion, that the Landlord did not prove that the Tenant had committed an illegal act involving the production and/or trafficking of an illegal drug or substance. In the review request, the Landlord repeats submissions that they introduced at the April 15, 2024 Board hearing. The Landlord reasserts that the hearsay evidence they submitted at the proceeding is persuasive evidence that the Tenant has committed illegal acts.

3. The Board's review process, however, is not an opportunity for a party to re-argue a matter that has been finally determined.
4. In the present case, the April 24, 2024 order demonstrates that the Member considered and weighed the Landlord's hearsay evidence of the Tenant's alleged illegal acts. The Member identifies deficiencies in the Landlord's evidence – some of which, for example, was posted anonymously on a social media platform – and the Member correctly notes that the Tenant was unable to cross-examine the documentary evidence to test its probative value. While the Landlord seeks to explain in the review request why no witness attended the hearing to support the Landlord's application, the fact remains that the Landlord relied exclusively on hearsay evidence to prove the Tenant committed illegal acts involving illegal drugs. By contrast, the Tenant attended the hearing in-person, and their testimony was subject to cross-examination by the Landlord's legal representative.
5. In the circumstances, I find the Member was entitled to prefer the Tenant's viva voce testimony over the Landlord's hearsay evidence. The case law the Member cites in the April 24, 2024 order supports the Member's concern about the probative value of the Landlord's hearsay evidence. The Member's conclusion, that the Landlord did not prove the reasons given in the notice to terminate the tenancy, is therefore rational, and the conclusion is entitled to deference.
6. The Landlord has accordingly not shown that a serious error exists in the April 24, 2024 order, or that a serious error occurred in the proceedings. The request to review the order must therefore be denied.

It is ordered that:

1. The request to review order LTB-L-094455-23 issued on April 24, 2024 is denied. The order is confirmed and remains unchanged.



Harry Cho
Vice Chair, Landlord and Tenant Board

May 9, 2024
Date Issued

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.