



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

Citation: Royal York Property Management v Gagliardi, 2024 ONLTB 58704

Date: 2024-08-02

File Number: LTB-L-009226-24-RV

In the matter of: 113 AISHFORD RD
BRADFORD ON L3Z0A7

Between: Royal York Property Management
Shixin Wei

Landlords

And

Giovanni Gagliardi
Michael Gagliardi

Tenants

I hereby certify this is a true copy of an Order dated
AUG 02 2024
Landlord and Tenant Board

Review Order

Royal York Property Management and Shixin Wei ('SW', the 'Landlords') applied for an order to terminate the tenancy and evict Giovanni Gagliardi ('GG') and Michael Gagliardi ('MG', the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard on June 4, 2024. The application was resolved by order LTB-L-009226-24 issued on July 10, 2024. The order notes that the Tenant MG, the Landlord SW and the Landlord's legal representative attended and participated in the hearing.

On July 31, 2024, the Tenant GG requested a review of the order.

A preliminary review of the review request was completed without a hearing. In determining this request, I reviewed the materials in the LTB's file as well as the audio recording for this hearing.

Determinations:

1. On the basis of the submissions made in the request, I am not satisfied that the Tenant GG was not reasonably able to participate in the proceeding.
2. The Board's application record does not include a request from GG to reschedule the June 4, 2024 Board proceeding. The hearing record shows that MG did not request an adjournment at the proceeding.
3. In *Lacroix v. Central-McKinlay International Ltd.*, 2022 ONSC 2807 (Div. Ct.) (CanLII) and *Wang v. Oloo*, 2023 ONSC 1028 (Div. Ct.) (CanLII), the Divisional Court affirmed that a party who does not attend a scheduled Board hearing must comply with the Board's process to reschedule or adjourn the hearing.

4. In the present case, the Tenants did not submit a request to reschedule the Board proceeding pursuant to Rule 21.1 of the Board's Rules of Procedure.
5. Also, the recording confirms that MG was present, was aware of the issues to be determined and exercised the right to address those issues. MG did not request an adjournment under Rule 21.7, and MG instead proceeded with a contested hearing of the Landlords' application. Since the Tenants were afforded the opportunity to know about and participate in the Board proceeding, I find that the Tenants were afforded procedural fairness.
6. Following the Court's reasons in *Lacroix* and *Wang*, and finding that the joint Tenant MG fully participated in the proceeding without requesting an adjournment for GG to attend, I find that GG has not shown that they were not reasonably able to participate in the June 4, 2024 proceeding.
7. Additionally, party to a Board application is required to exercise reasonable diligence to attend the scheduled Board hearing: *Q Res IV Operating GP Inc. v. Berezovs'ka*, 2017 ONSC 5541 (Div. Ct.) (CanLII). Here, GG's vague submission that they were not able to attend the proceeding because of the location of GG's work does not adequately explain their failure to participate in the proceeding. Without details, GG has not shown that they exercised reasonable diligence to attend and participate in the June 4, 2024 Board hearing.
8. The Tenant GG's request to review the July 10, 2024 Board order, or to hold a re-hearing of the Landlords' application, must therefore be denied.

It is ordered that:

1. The request to review order LTB-L-009226-24 issued on July 10, 2024 is denied. The order is confirmed and remains unchanged.



Harry Cho
Vice Chair, Landlord and Tenant Board

August 2, 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.