



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

Citation: Allicock v Revell, 2024 ONLTB 81231

Date: 2024-10-24

File Numbers: LTB-L-022257-24-RV
LTB-T-027520-23-RV

In the matter of: 56, 50 TURNTABLE CRES
TORONTO ON M6H4K9

Between: Megan Revell

And

Sandra Allicock

I hereby certify this is a
true copy of an Order dated

OCT 24 2024

Landlord and Tenant Board

Landlord

Tenant

Review Order

Megan Revell (the 'Landlord') applied for an order to terminate the tenancy and evict Sandra a. Marie Allicock (the 'Tenant') because the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant.

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date, and applied for an order requiring the Tenant to pay the Landlord's reasonable out-of-pocket expenses that are the result of the Tenant's conduct or that of another occupant of the rental unit or someone the Tenant permitted in the residential complex. This conduct substantially interfered with the Landlord's reasonable enjoyment of the residential complex or another lawful right, privilege or interest.

Sandra Allicock (the 'Tenant') applied for an order determining that Megan Revell (the 'Landlord'):

- altered the locking system on a door giving entry to the rental unit or residential complex without giving the Tenant replacement keys.
- substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenant or by a member of their household.
- harassed, obstructed, coerced, threatened or interfered with the Tenant.

This application was resolved by order LTB-L-022257-24/LTB-T-027520-23, issued on August 29, 2024.

On August 30, 2024, the Tenant 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 the Tenant was not reasonably able to participate in the proceedings, or that there is a serious error in the order or that a serious error occurred in the proceedings.
2. The August 29, 2024 Board order identifies and summarizes the evidence and submissions that guided the Member's findings. It is apparent from the order that the parties were aware of the issues to be determined and were afforded the right to address those issues throughout the multiday proceedings, including addressing the merits of both applications and requesting relief from eviction pursuant to section 83 of the *Residential Tenancies Act, 2006* (the 'Act'). The order demonstrates that the Member also considered the Tenant's requests to introduce and amend material during the proceedings and for the presiding Member to recuse himself. With respect to determining the merits of the applications, the Member sets out in detail in paragraphs 38 to 43 the Tenant's reply to the Landlord's allegations of interference, and in paragraphs 69 to 118 all the Tenant's separate allegations of interference and harassment. It is therefore apparent from the order that the parties fully participated throughout the proceedings and that the Board Member properly admitted and considered the parties' evidence and submissions.
3. I find from the above that the Tenant has not demonstrated that they were not reasonably able to participate in the proceeding. The Tenant's submission that the proceedings were procedurally unfair is without merit.
4. The Tenant does not dispute the Board Member's conclusion that the Tenant did not introduce sufficient evidence to prove the Landlord altered the locking system, substantially interfered with the Tenant's reasonable enjoyment of the property, or harassed, obstructed, coerced or threatened the Tenant. The Tenant nevertheless submits that the Member "failed to engage with the substance of my claims." The Tenant writes: "The adjudicator... focused primarily on whether I met the burden of proof to substantiate these claims, rather than thoroughly examining whether my rights were actually being violated. This focus on procedural technicalities represents a significant misapplication of the legal principles governing these proceedings."
5. The Tenant's submission reflects the Tenant's misunderstanding of Board proceedings, where a party is required to prove, on a balance of probabilities and with relevant evidence, the party's claim. Pursuant to section 174 of the Act, the Board has the power to determine questions of law and fact that fall under the Board's jurisdiction. The Board relies on evidence introduced during a proceeding to make its determinations. A lack of reliable, probative evidence is therefore a relevant factor for a Board Member to consider when determining an application.
6. Here, the presiding Member gives ample reasons why he determined that the Tenant's subjective belief of interference and harassment were inadequate to prove a breach of the Landlord's obligations under the Act. Paragraph 99, for example, explains why the

Tenant did not prove, on a balance of probabilities, that text messages from the property manager resulted in a breach of the Tenant's human rights. The Member makes similar findings with respect to various email messages from the Landlord or property manager and other issues arising during the tenancy. The Member finds that the Tenant's complaints do not result in a *substantial* interference.

7. Although the Tenant may disagree with the Member's decision to grant the Landlord's application and to dismiss the Tenant's application, the Member was in the best position to admit and consider the parties' relevant submissions. Based on the parties' evidence, the Member's finding that the issues raised in the Tenant's application did not amount to *substantial* problems is reasonable, and the conclusion is accordingly entitled to deference. There was also sufficient evidence, including the Tenant's testimony, for the Member to find that the Tenant interfered with the Landlord by, for example, refusing entry into the rental unit.
8. The Member's findings are therefore rational and are entitled to deference.
9. While I am mindful of the length of the proceedings, this does not represent an error or a ground to review a final Board order. If the Tenant believes the Board has not met a service delivery standard, the Tenant may make use of the Board's complaints process, which is separate and apart from the Board's review process.
10. The balance of the review request seeks to introduce submissions that were, or should have been, introduced during the proceedings. The Tenant, for example, reasserts that they did not interfere with the Landlord by refusing entry after receiving valid notice, and the Tenant describes personal circumstances to support their application to the Board. While I am mindful of those circumstances, the Board's review process is not an opportunity for a person to re-argue a matter that has been finally determined. Having not shown that they were not reasonably able to participate in the proceedings, or that a serious error exists in the order or occurred in the proceedings, the Tenant's request to review the August 29, 2024 order must be denied.

It is ordered that:

1. The request to review order LTB-T-027520-23, issued on August 24, 2024, is denied. The order is confirmed and remains unchanged.



Harry Cho
Vice Chair, Landlord and Tenant Board

October 24, 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.