



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

File Number: LTB-L-062605-24-RV

In the matter of: 3, 73 Grand Avenue North
Cambridge ON N1S2L1

Between: Lorri Detta Landlord

And

Brittany Lemay Tenant

I hereby certify this is a true copy of an Order dated
Apr 2, 2025
Landlord and Tenant Board

Review Order

Lorri Detta (the 'Landlord') applied for an order to terminate the tenancy and evict Brittany Lemay (the 'Tenant') because the Tenant, another occupant of the rental unit or someone the Tenant permitted in the building has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord in a building that has three or fewer residential units and the Landlord resides in the building.

This application was resolved by order LTB-L-062605-24 issued on February 28, 2025.

On March 3, 2025, the Landlord requested a review of the order. The review was heard by videoconference on March 18, 2025.

The Landlord, the Tenant, and the Tenant's representative Aditi Sharma attended the hearing.

Reasons:

Review

1. The order under review is a consent order issued at the joint request of the parties. It terminates the tenancy effective February 28, 2025 and provides for payment of \$1,200.00 in rent arrears.
2. At the Tenant's request, the Member who issued the order also included a clause at paragraph 8 ordering all open access legal research platforms, including the CanLII website where Landlord and Tenant Board (LTB) decisions are normally published, not to publish the order or any orders resulting from the application and to remove any that had already been published.
3. Paragraph 8 is the only part of the order that was not issued on consent. The Landlord requests a review of the decision to include paragraph 8 in the order.

4. I am satisfied that the decision to include paragraph 8 constituted a serious error, for three reasons.
5. First, the Member did not give adequate written reasons for making the order. The Member's reasons state that they considered the test in *Sherman Estate v. Donovan*, 2021 SCC 25, but do not set out that test or apply it to the circumstances of the case. The only circumstance cited in the reasons is that the Tenant is a victim of violence and there is a risk to her safety in the event of the order being made public. The reasons do not explain what that risk would be. The reasons are insufficient to allow me to conclude that the Member applied the law to the facts of the case in a reasonable way.
6. Second, the order does not contain any personal information other than the Tenant's name and former address. I cannot see how the Member could possibly have reasonably concluded that publication of the information in the order would put the Tenant's safety at risk.
7. Third, the form of order the Member chose is unusual. I am not aware of any other cases in which a court or tribunal has ordered a legal research website not to publish a decision. I am skeptical that the LTB would have the authority to make such an order binding a third party. Further, although the courts do have that authority, as far as I am aware they do not exercise it in the manner the Member did here. Rather, a court might order a publication ban while a proceeding is ongoing, but not after it has ended. Where a court determines that publication of one of its decisions would cause an unwarranted intrusion into a person's privacy, it will publish an anonymized version of the decision. The idea of a permanent publication ban on a decision in its entirety would seem to me to be inimical to the open court principle. The Member gave no reasons for departing from normal practices respecting anonymization of decisions.
8. For those reasons, I granted the review request and heard the Tenant's request for confidentiality *de novo*.

De novo consideration of the issue

9. In the *de novo* proceeding, the Tenant did not seek a clause prohibiting publication of the order. Instead, she requested that the order be anonymized. As discussed above, in my view that would be a more appropriate solution in cases where an order contains personal information, the disclosure of which would cause harm.
10. In this case, however, the Tenant was unable to explain how publication of the order could cause her harm. She argues that her current address should not be published, but the order does not contain her current address. It contains the address where she used to live until her tenancy was terminated, on February 28, 2025, by the order itself.
11. The open court principle is a fundamental principle of our legal system, and should only be limited where the circumstances warrant it. Decisions are presumptively available to the public. In this case, the Tenant has not identified any reasonable reason why the decision under review should not be open to the public. The request for anonymization is therefore denied.

It is ordered that:

1. Order LTB-L-062605-24, issued on February 28, 2025, is amended to remove paragraph 8.

April 2, 2025
Date Issued

Dale Whitmore

Dale Whitmore
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.