

150 Finch Avenue West – Chronology of Events:

Based on the information provided to staff, the chronology of events is as follows:

January 31, 2003 Landlord gives handwritten notice terminating tenancy and requiring the four tenants residing in the building to vacate by March 31, 2003 for reason of “construction”. No explanation was provided with respect to the nature of the construction (i.e. demolition, repair, or renovation). Notice was not in proper form and no right of first refusal or compensation was given to the tenants.

March 31, 2003 By this date, all tenants had vacated the building.

New information - October 31, 2003 to December 19, 2003

The four tenants residing at 150 Finch Avenue West applied to the Ontario Rental Housing Tribunal for an order that the landlord gave a notice of termination in bad faith and for a rent rebate because the landlord has not paid the tenants compensation for asking them to move out.

Key issues	Application: Oct.31/03 Hearing: Nov. 18/03	Order: Dec.2/03	Request for Review: Dec. 18/03	Order: Dec.19/03
Tribunal decision	Dismissed application		Dismissed request	
Reasons for application	The Tenants applied for an order determining that their landlord gave a notice in bad faith. The Tenants also applied for a rent rebate because the Landlord has not paid the Tenants compensation, which is owed to them because they had to move out of the rental unit because the landlord intended to convert the unit to another use, demolish it or repair or renovate it. Their submission noted that only one tenant was served the notice of	The Tribunal found that: Ms. Giraldo, was not prepared to present her own case, in that she was unfamiliar with all of the legal issued (sic) relating to the application and with the supporting documents given to her by the paralegal who had prepared and filed the application.	The tenant submitted that she could not be aware of the details of the case as the paralegal had this information, and did not attend the hearing.	The Order states that: <i>the purpose of a review is not to provide the parties with an opportunity to present a better case than they did at their hearing;</i> <i>the record indicates that the Tribunal Member had considered the evidence presented and arrived at his determinations.</i>

	<p>eviction, not in the proper form, and that the length of notice was not sufficient (30 days rather than the required 120).</p> <p>The submission also claimed that the landlord was not providing and maintaining the property in a good state of repair and fit for habitation, citing an inspection done by property standards.</p>			
Notice for landlord	<p>At the hearing, the landlord questioned the sufficiency of the timing of the notice of hearing given him by the tenants.</p>	<p>The Tribunal found that: ... <i>the Landlord was not given the required number of days notice of the hearing.</i></p>	<p>The tenants submitted that:</p> <ul style="list-style-type: none"> ▪ the Tribunal misplaced the “Certificate of Service” that their agent had filed on the date of application; ▪ their application and notice of hearing were sent to the landlord by fax and by mail on the date of their application. 	<p>The Tribunal upheld the findings in the previous order that the landlord was not given the required number of days’ notice of the hearing and considered that sufficient grounds for dismissal of the tenants’ request for review</p>
Hearing	<p>Four tenants were named in the application, but only Ms. Giraldo attended the hearing. She did not have authorization to represent the other tenants. The paralegal could not attend hearing and gave supporting documents to Ms. Giraldo. Ms. Giraldo wanted to proceed with the hearing despite the absence of the agent.</p>	<p><i>It was Ms. Giraldo’s desire that the hearing proceed and that she hoped the hearing process would allow her to put her case together.</i></p> <p>The Tribunal found that: <i>Ms. Giraldo was unprepared to speak to the preliminary issues with regard to the sufficiency of service of the Notice of Hearing to the Landlord, four separate tenancies and four separate Tenants and one rental unit address in</i></p>	<p>Ms. Giraldo submitted that she did not want the adjournment as she feared the case would be considered abandoned if she failed to appear at the next hearing (s. 7 of the Statutory Powers Procedure Act) and that she believed that the case would proceed under any circumstance. According to Ms. Giraldo’s submission with the review application, she and the Tribunal Member discussed the possibility of adjournment with a condition, although this is not reflected in the order.</p> <p>The application went on to note</p>	<p>The Tribunal Member who reviewed the case was <i>not satisfied that there may be a serious error in the order or that a serious error occurred in the proceedings.</i></p>

		<i>the application, the lack of written authorization from the other Tenants for her to represent them at the hearing.</i>	that Ms. Giraldo could not present the evidence as the paralegal who was expected to represent the tenants backed out at the last minute, and Ms. Giraldo did not know all the details from the application.	
Translation	No documentation that this issue was raised.	The Order did not address this issue.	The Request for Review states that Tenants asked for French translator at the time of application; however, no translator was provided at the hearing.	The Order did not address this issue.

Information Originally Submitted

- March 31, 2004 Ms. Giraldo applied to the Tribunal for an order determining that the landlord gave notice of termination in bad faith and collected or retained money illegally.
- April 27, 2004 The tenant's application was heard.
- May 28, 2004 The Tribunal issued an order finding that it does not have jurisdiction to adjudicate the matter because the alleged conduct occurred through notice to the tenants on January 31, 2003, which is more than one year prior to the date that the tenants filed the application on March 31, 2004. Section 32(2) of the Tenant Protection Act requires that an application for an order that the landlord gave notice of termination in bad faith be made within one year after the day of the alleged conduct giving rise to the application.

New Information: June 28 & 29, 2004

- June 28, 2004 A request for review of the May 28, 2004 Tribunal order was filed by a paralegal (Steven Smith) on her behalf. The reasons for the request were the same as those presented in the December 18, 2003 request for review.
- June 29, 2004 An order was issued by the Tribunal dismissing the request. The order indicated that the request simply expressed disagreement with the findings of fact rather than alleging a serious error in principles was applied in

arriving at those findings, and there was nothing to support that the previous Tribunal Member's interpretation of the Tenant Protection Act was unreasonable: *I am not satisfied that there may be a serious error in the order or that a serious error occurred in the proceedings.*

September 26, 2005 Ms. Giraldo requested the City's help in obtaining proper compensation as prescribed by the TPA, for tenants who were evicted from their apartments due to demolition/renovation. This matter was brought to the attention of the Tenant Defence Sub-Committee by Councillor Jenkins.

Documentation was provided by Ms. Giraldo to support her request, including: a summary of events related to the tenants' evictions, the Tribunal order issued on May 28, 2004, the landlord's notice to vacate, the reasons for the tenants' application to the Tribunal, and an undated and unsigned request for review of the May 28 order.

The Sub-Committee adopted Councillor Jenkins' recommendations requesting that the General Manager of Shelter, Support and Housing Administration, in consultation with appropriate staff, to:

- (1) review the summary of events to determine whether the landlord violated Section 57 of the Tenant Protection Act about landlords' obligation to provide compensation to the tenants in such evictions;
- (2) review additional information provided by the tenant including the Tribunal order to determine whether the Tribunal might have erred in dismissing the tenants' application for compensation;
- (3) report back to the Sub-committee with recommendations on what (if any) actions the City can take to assist the former tenants of the property in pursuing their case further through a review of the Tribunal order or an appeal to the Divisional Court.

October 27, 2005 After consultation with Legal staff, SSHA provided a report to the Sub-Committee for its meeting on December 15, 2005 (attached for information). Staff indicated that it may have been possible to provide a grant from the Tenant Support Grants Program to support the tenants' application as it would have been within the spirit and intent of the application; however, because the one-year time limit for taking legal action has passed (more than 2 years since the tenants were given notice and vacated the building), providing a grant at the time of the Sub-Committee's request would not assist the tenant to dispute the eviction.

December 15/05 The Sub-Committee meeting was cancelled and rescheduled to January 6, 2006.

- January 6, 2006 The Sub-Committee reviewed the SSHA report and requested the City Solicitor *to provide an in-camera report on whether or not there are any avenues, legal or otherwise, to help the tenant group, having regard that the tenants intend to appeal in Small Claims Court.*
- July 9, 2007 At the request of Councillor Jenkins, the Sub-Committee followed up on its January 6, 2006 recommendation and requested the City Solicitor to report on this matter at its next meeting on September 25.
- September 25, 2007 City Solicitor provided a report to the Sub-Committee with respect to the tenant application (attached for information). The City Solicitor indicated that the Small Claims Court does not have jurisdiction to hear an appeal of an order to the Tribunal. If the tenants wish to take further action, they may either appeal to the Divisional Court or request a review of the Tribunal order. Given the 30-day limit for filing an appeal or a request for review has passed, the report concluded that a grant is not likely to be of any assistance to the tenants, and that there do not appear to be any further avenues available for assisting the tenants.
- At the same Sub-Committee meeting, Ms. Giraldo requested that the City approve a grant to cover the tenants' legal expenses as a result of their applications and requests for review to the Tribunal. Ms. Giraldo indicated that the tenants had initially applied to the Tribunal prior to the one-year limit, and she showed SSHA staff two additional orders issued by the Tribunal in December 2003. Neither orders had previously been submitted to the Sub-Committee or staff. Ms. Giraldo indicated that the tenants had incurred up to \$4,000 legal fees for all their applications, requested that the City assist them by paying these costs, and advised that she had invoices for all costs incurred. The Sub-Committee then requested the SSHA General Manager to review the new information she submitted and report back at its next meeting on November 12.
- After the meeting, staff asked Ms. Giraldo for the two Tribunal orders for photocopying, but she refused, stating that she needed to get her papers in order. She promised to send the new information to us within the next two weeks.
- October 26, 2007 Ms. Giraldo has faxed the two Tribunal orders (dated December 2 and December 19, 2003).
- Staff have also asked for receipts for the legal costs incurred.

January 8, 2008

Staff received the receipts for the tenants' application fees, legal costs and disbursements totalled \$4,681.

Following is the breakdown of this total amount:

(1) Expenses for the first Tribunal application (Oct. 31/03) and Request to Review (Dec. 18/03):

Legal fees paid to 1 st paralegal for the application:	\$1,926
Application fee for the application:	\$60 (\$45 + \$5 for each additional applicant)
Request to review 1 st Tribunal order:	\$75
Tribunal CD for the application	\$25 (receipt not attached)
 Subtotal:	 \$ \$2,086

(2) Expenses for the second Tribunal application (March 31/04) and Request to Review (June 28/04):

Legal fees paid to 2 nd paralegal for the application and Request to Review:	\$1,720
Application fee:	\$45 (Ms. Giraldo only)
Request to Review fee:	\$75
Tribunal transcripts:	\$535
Tribunal CD:	\$25 (receipt not attached)
Witness letters (2):	\$75 (receipts not attached)

Subtotal: \$2,475

Other Expenses (for both applications): Disbursements and photocopies: \$120 (only a \$22 receipt attached)

TOTAL EXPENSES: \$4,681