



Order under Section 57 Residential Tenancies Act, 2006

Citation: Batista v Seguin, 2026 ONLTB 702

Date: 2026-01-08

File Number: LTB-T-008887-25

In the matter of: A, 500 Coniferes Cres
Orleans ON K4C1A4

Between: Filipe Batista Tenants
Novah Danis

And

Daniel Seguin Landlord

And

Peter Mian Purchaser

Filipe Batista and Novah Danis (the 'Tenant') applied for an order determining that Daniel Seguin (the 'Landlord') and Peter Mian (the 'Purchaser') gave a notice of termination in bad faith.

This application was heard by videoconference on December 18, 2025. The Landlord attended the hearing. The Purchaser, Represented by David Ciobotaru, and the Tenant, Filipe Batista, attended the hearing.

When the capitalized word "Tenant" is used in this order, it refers to all persons identified as a Tenant at the top of the order.

Determinations:

Preliminary Issues:

Request to Dismiss – Lack of Particulars

1. The Purchaser seeks to have the Tenant's application dismissed because the Tenant's application lacks sufficient particulars.

2. The Tenant submits that the application is sufficiently clear such that the Landlord and Purchaser knew the case to be met.
3. Section 212 of the *Residential Tenancies Act* ('the Act'), states:
 - “(1) Substantial compliance with this Act respecting the contents of forms, notices or documents is sufficient.
 - (2) For greater certainty, an error in the contents of a form, notice or document still constitutes substantial compliance with this Act, as long as the error does not significantly prejudice a party's ability to participate in a proceeding under this Act.”
4. When I consider s. 212 of the Act, I am not persuaded that the lack of particulars has significantly prejudiced the Purchaser's ability to participate in the hearing. I say this because there is clearly only one property which was purchased and one N12 notice of termination which was given to the Tenant resulting in the application before the Board. I do not find the Purchaser could have been mistaken as to the reason for the application, and that the pleadings are sufficiently clear such that the Landlord and Purchaser knew or ought to have known the case to be met.

Request to Dismiss – Compensation Claimed

5. The Purchaser also seeks dismissal of the Tenant's application because the Tenant's application does not identify an amount sought as a remedy. The Purchaser also states that this matter had been adjourned previously such that the Tenant ought to have had sufficient time to amend his application.
6. Remedy 6 of the Tenant's application, which requests the LTB to order other remedies states, in-part: “Under the Rules I am allowed to request one years [sic] worth of rent. My rent was \$2250 per month. The figure I am requesting is under that amount which I am willing to settle for.” The Tenant submits that he had been seeking \$22,500.00 and seeks to amend the application to request \$22,500.00 under Remedy 6.
7. The Tenant submits that when he was preparing the Tenant's application, the Tribunals Ontario Portal ('TOP') system had been “glitching,” and he did enter financial figures in remedy 6, despite the application showing zero.
8. Rule 15.4 of the Board's Rules of Procedures includes that the Board may amend an application where satisfied the amendment would not result in prejudice to any party, is necessary, and is made in good faith, and made as soon as the need was known.
9. The Tenant was unaware that the application had not properly reflected his claim. He also submits that at the prior adjourned hearing, the Member did not raise this with him. This is confirmed by the adjournment sheet. I find the Tenant made the request in good faith and the amendment is necessary, because it appears the issue was a problem with the Portal rather than an omission by the Tenant.

10. I find the pleadings are sufficiently clear such that the Landlord and Purchaser are not significantly prejudiced by the omission in the Tenant's application. The Landlord did not lead evidence to suggest that they would have prepared for the hearing any differently had the omission not been present.
11. Therefore, I granted the Tenant's request to amend his application to claim \$22,500.00 under Remedy 6.

Tenant's T5 Application

12. As explained below, the Tenant proved the allegations contained in the application on a balance of probabilities. Therefore, the Purchaser must pay to the Tenant \$13,500.00.
13. Subsection 57(1)(b) of the *Residential Tenancies Act, 2006* (the 'Act') requires the Tenant to prove each of the following on a balance of probabilities:
 - The Landlord gave the Tenant an N12 notice of termination under section 49 of the Act;
 - The Tenant vacated the rental unit as a result of the N12 notice of termination;
 - No person referred to in subsection 49(1) or 49(2) of the Act occupied the rental unit within a reasonable time after the Tenant vacated; and
 - The Landlord served the N12 notice of termination in bad faith.
14. By way of background, the rental unit was the main floor of a house consisting of four bedrooms, a large back yard with a pool, and two and a half bathrooms. The tenancy began four years earlier. The Tenant lived in the rental unit with his nine-year-old child.

Tenant's Evidence

15. The Tenant's evidence is that he was given an N12 for Purchaser's own use for the Purchaser's son, by the Landlord at about the end of December 2023, with a termination date of February 1, 2024 (Doc 5221012 & Doc 5220956). The Tenant understood that the property had been sold, and that the purchaser required vacant possession of the rental unit. The Tenant, after being given the N12 notice, left the rental on February 1, 2024.
16. The Tenant says he kept an eye on the property, and no one moved in. He saw a car in the driveway on or about March 5, 2024, so he stopped to knock on the door. He says the Purchaser's wife, "Joan" answered the door. The Tenant inquired whether the unit was for rent; she stated it was not. Joan indicated she was showing the house to "a friend." The Tenant says she was acting suspiciously. For example, she was trying not to open the door more than a small amount. The Tenant saw Mr. H. in the rental unit that day, and it was Mr. H. who was later confirmed to be the new tenant from April 1, 2024 to August 31, 2025.
17. The Tenant also recalls that in March 2024, although the Tenant was not certain the date, he saw a "For Rent" sign in front of the rental property. He contacted the Landlord's Realtor, Stephen George ('SG'), listed on the sign stating he was the former Tenant and that he wished to be allowed to re-rent the unit even if at a higher rate. SG told the Tenant he would pass along this information to the Purchaser. The next day the sign was gone.

18. The Tenant says that he hoped he could be moved back into the rental unit. His child's best friend was a neighbour, and his child was "devastated" by the move. The child's school district was changed because of the move, and his child no longer has a tight knit group of friends they once had. Their new rental unit is less expensive; \$2,100.00 each month now. However, they now have only two bedrooms in the upper storey of a home and a deck with no yard in a very old home. The property is about half of the size of the rental unit. They do not have use of a swimming pool or yard and have only one bathroom now. His child still asks about their old home.
19. The Tenant also testified that he had to throw away a good number of his belongings because he did not have time to sell it before having to vacate the rental unit and the new rental unit was so much smaller that he would not be able to keep those items. He also said he missed a lot of work because of packing and moving.

Landlord's Evidence

20. The Landlord's uncontested evidence is that he is a realtor. He decided to sell the rental property and advertised it on the MLS. He did not know the Purchaser, but was acquainted with the Purchaser's realtor, SG. SG told him that the Purchaser intended to the rental unit to be used for his son. So, he served the N12 believing this to be the case. His evidence, which I find credible, is that he had no reason to doubt the representations made by SG on behalf of the Purchaser.
21. The Landlord testified that the APS, which was not provided in evidence, did refer to the fact the property was tenanted and indicated that the upper floor – the Tenant's unit – was to be delivered to the Purchaser vacant; however, the basement tenant could remain.

Purchaser's Evidence

22. The Purchaser says he was searching for an investment property. He found the property on the MLS system and contacted his realtor, SM, about it. He put an offer in on the property which was accepted. Initially, the plan was that his son and his son's girlfriend were going to move in. However, soon after the house purchase closed, his son and his son's girlfriend broke up, and his son no longer needed the rental unit.
23. During this time, the Purchaser was out of the country on a work-related trip. His spouse, who he is now separated from, was managing things in his absence. The Purchaser states he had "no idea" that the sign to rent the unit was put up at the rental property and that he did not give SG instructions to do so. He also states he did not give any instructions to serve the Tenant with an N12.
24. Regardless, because the Purchaser and Joan could not carry the property without a tenant, they were able to find a renter, Mr. H., who they found through a "friend-of-a-friend." It is not contested that Mr. H. began his tenancy on April 5, 2024. The Purchaser's evidence is that this was a month-to-month tenancy.

25. Since he purchased the house, his relationship with Joan has ended. He now lives in the rental unit with his two children. His evidence is that their relationship ended in about October 2024. He gave Mr. H. an N12 and moved into the rental property on September 1, 2025. However, he had sold his home and lived in a rental unit for about seven months before moving into the rental property.
26. SG testified. He states that he put the "For Rent" sign up in the Purchaser's yard on about March 18, 2025. His evidence is that after speaking to Joan, who was the co-purchaser of the rental property, she told him the relationship had broken down [the Board presumes he is referring to the son's relationship] and he had offered to help find a prospective tenant and put the sign up. He says it was premature, which is why the sign was taken down almost immediately. He agrees he received a call from the Tenant stating the Tenant was irate that he had been evicted. Later, the Tenant sent a text message apologizing for his outburst. He says that he told the Purchaser about the Tenant's call.

Analysis

27. In *Elkins v. Van Wissen*, 2023 ONCA 789, the Court of Appeal for Ontario held that when deciding a T5 application relating to an N12 served for purchaser's own use under section 49 of the Act, the LTB must consider both the Landlord's and the Purchaser's good faith. After making both those determinations, the LTB must then consider what orders to make in respect of the landlord and the purchaser, in par. 43 through par. 45:

"[43] On a plain reading of ss. 49(1) and 57(1)(b), the Vendor Landlord's conduct is linked to the purchaser's good faith. Section 49(1) permits the Vendor Landlord to, on behalf of the purchaser, give the tenant a termination notice so long as the purchaser, in good faith, requires possession of the rental unit for the purpose of residential occupation. Section 57(1)(b) requires the Board to determine, among other things, whether the Vendor Landlord gave the s. 49 termination notice in bad faith. When ss. 49(1) and 57(1)(b) are read together, it is clear that the object of those provisions is to prevent the sale of a property from being used to unlawfully evict a tenant. Accordingly, the Board must consider all the evidence before it that is relevant to the Vendor Landlord's bad faith under s. 57(1)(b). It is an error of law for the Board to restrict its consideration to the evidence at the point in time when the Vendor Landlord gives the tenant a s. 49 termination notice. This case makes that point.

[44] As a result of artificially narrowing the assessment of bad faith to when the s. 49 Termination Notice was given, the Board failed to consider that, after the notice was given but before the sale of the Property closed, the Vendor Landlords and/or their lawyer knew that title to the Property would be taken in the name of Embleton Homes Inc., a corporation. A corporation cannot personally occupy a residence for residential purposes. This information must surely be relevant to the Board's determination of the Vendor Landlords' bad faith under s. 57(1)(b).

[45] It could be argued that s. 57(1)(b) implicitly limits Board scrutiny to the Vendor Landlord's knowledge when it gives the s. 49 termination notice. However, such an interpretation runs afoul of s. 202(1) of the RTA. Under s. 202(1), the Board is 2023

ONCA 789 (CanLII) required, when making findings on an application, to ascertain the “real substance Page: 18 of all transactions and activities relating to...a rental unit and the good faith of the participants”. Limiting the assessment of a Vendor Landlord’s bad faith to that single point in time when the s. 49 termination notice is given precludes the Board from both ascertaining the true substance of the transaction between the Vendor Landlord and the purchaser and conducting a fair assessment of their good faith.”

28. Section 202 of the Act states that the Board shall ascertain the real substance of all transaction and activities relating to a residential complex and the good faith of the participants in doing so and may have regard to the pattern of activities relating to the residential complex. Thus, s. 202 compels me to consider the true nature of the transaction. In this situation, the Landlord was directed to give the notice of termination on behalf of the Purchaser, and the Landlord had no reason to doubt the Purchaser’s claim that he intended to occupy the rental unit.

29. The Court goes on, in *Elkins*, to detail that the Board has jurisdiction to make an order against a purchaser when it finds that a purchaser has acted in bad faith, stating:

“[58]...While s.57 (3) sets out specific orders that can be made against a Vendor Landlord who acts in bad faith in giving a s. 49 termination notice, it also empowers the Board to make any order it “considers appropriate.” Thus, if the Board finds that a Vendor Landlord did not act in bad faith but the purchaser did, s 57 (3) gives the Board the power to make appropriate orders against the purchaser. This gives teeth to the good faith requirement on the part of the purchasers in s. 49 (1).”

30. Section.57(3)4 of the Act gives the LTB the power to make an order against the Purchaser. Therefore, remedies can be issued against the purchaser alone, the Vendor Landlord alone or against both depending on who is found to have acted in bad faith.

31. The standard of proof in proceedings before this Board is “proof on a balance of probabilities.” By that standard, the party bearing the burden of proof must show with evidence that, “more likely than not”, their assertions are true. Where, the evidence of the opposing party is as believable as that of the party bearing the burden of proof, that burden cannot be said to have been discharged.

32. When I consider the Purchaser’s testimony, I am not satisfied that the Purchaser has met his onus of proof that there was a material change of circumstances. I say this because I find the Purchaser’s evidence lacks credibility. For example, it does not accord that if you intended to purchase the rental unit as an “investment” property, that you would then put your child in the home.

33. The Purchaser said he asked for vacant possession of the main floor of the rental unit and that he was completely unaware of how this would be accomplished, leaving this to the Landlord to deal with. However, this conflicts with SG’s evidence that he understood the property was going to be renovated and then used for by the Purchaser’s son and his girlfriend. Regardless, the Purchaser is responsible for the actions of his agents.

34. I also do not accept either the Purchaser's or SG's testimony with regard to the For Rent sign being placed in the yard. The Purchaser states he was not made aware by SG that the Tenant had contacted him about the property. However, this was contradicted by SG who says he did tell the Purchaser.
35. Further, I do not accept that SG put the sign up in error. Even if I accept the Purchaser's testimony that he did not instruct SG to put up the For Rent sign, I find that the co-Purchaser Joan did provide these instructions to SG. I find it is more likely than not that after having a conversation with SG about the Tenant's irate telephone call, the Purchaser instructed SG to remove the sign. Whether the Purchaser says he knew anything about the For Rent sign or not, he is still responsible for the actions of those who act on his behalf including SG.
36. Finally, the Purchaser did not have his son give evidence about the change of circumstances. Although SG provided evidence which corroborated the Landlord's testimony, I find that SG's testimony must be treated with caution. I say this because SG was not initially called to give evidence. However, as final submissions were being given, SG attended the hearing to provide evidence despite the fact the Board had not requested he be called to give evidence. Both the Tenant and Purchaser wanted SG to give evidence, so I allowed him to be called. However, given that he was not sequestered during the hearing, there is no way to establish if his testimony was influenced. Given this, I afford his testimony little weight.
37. The Tenant moved out of the rental unit on February 1, 2024. On March 5, 2024, the Tenant attends the rental unit and witnesses Joan acting in an evasive manner. The Tenant sees the individual in the house who is later confirmed to be Mr. H. in the rental unit at this time, and this individual is later confirmed to be the new tenant. The "For Rent" sign is placed in the yard of the rental unit on or about March 18, 2024, and the property is re-rented on April 5, 2024.
38. In my view, without having the Purchaser's son attend to give evidence about what took place in the timeframe between February 1, 2024, and March 5, 2024, there is no way to corroborate the Purchaser's testimony. The burden of proof is to establish, on a balance of probabilities, that the Purchaser's version of events is more likely than not true. I do not find that the Purchaser met the onus of proof on a balance of probabilities his version of events is true.
39. Additionally, the Purchaser refers to his dealings with Mr. H. stating he gave him an N12 but allowed Mr. H. to remain in the property for several months forcing the Purchaser to rent somewhere else for about seven months. However, I do not consider this to be a change in circumstances, because based on the Purchaser's own testimony, the breakdown of his relationship did not happen until October 2024, eight months after the Tenant vacated.
40. Lastly, the Purchaser testified several times how this matter all could have been resolved if the Tenant had simply reached out to him and told him he wished to return to the property, he would have re-rented the unit to him. However, I find this statement also lacks credibility. The Tenant gave evidence of trying to reach the Landlord through Face Book, through e-mail, by telephoning him and by speaking to SG as early as March 2024. The Purchaser made no attempts to return his calls or discuss the matter.

41. When I consider the real substance of all transactions and activities relating to the residential complex and the good faith of the participants, as required by *Elkins* and s. 202 of the Act, I am not persuaded that the Purchaser had good faith in terminating the tenancy.
42. I do not find that the Landlord bears responsibility for the termination of the tenancy. Rather, I find the Purchaser misled the Landlord as to the true nature of the transaction, as evidenced by the APS SG's testimony, and in my view, it is the Purchaser who bears the responsibility for giving a bad faith notice to the Tenant

Remedies

43. The Tenant seeks \$22,500.00 which represents an 83% of the rent he paid at the rental unit for a period of one year. The maximum award the Board could order would be \$27,000.00 which represents 12 months' rent at \$2,250.00 which was the rent the Tenant paid when the tenancy terminated.
44. Section 57(3)(4) of the Act states that the Board may make "Any other order that the Board considers appropriate. General compensation is intended to compensate for losses which are not quantifiable by money, for example, pain and suffering and the loss of enjoyment of life.
45. Although the matter of *Biltmore Terrace Apartments v. Nazareth*, [1997] O.J. No. 1881, a decision rendered under the *Landlord and Tenant Act*, refers to the Landlord's obligation to maintain a rental unit, I find the Divisional Court's guidance useful to the situation at hand also. The Divisional Court remarked:
- "It is always difficult to arrive at a proper amount or percentage by way of abatement. There is no magic formula. What is appropriate in each case will depend on the circumstances, including the amount of rent, the age and general condition of the premises, the nature and degree of the non-repair, and its duration, the efforts of the Landlord to inspect, the co-operation or otherwise of the Tenant in that regard, and the efforts made by the Landlord to rectify the defect."
46. When I consider the impact that this had on the Tenant and his child, who the Tenant says is still suffering from the effects the move had on her, the loss of space, and facilities like additional washrooms and the use of a pool and yard, I am of the view that the Tenant is entitled to \$13,500.00, which is rent for a six-month period. This is similar, and in the range of, other orders of the Board. (See *Esguerra v Noton*, 2025 ONLTB 21936; *Marcia Boone v Jeveethan Elangeswaran*, 2023 ONLTB 36301; *Murray v Morra*, 2025 ONLTB 76642).
47. This order contains all of the reasons within it. No further reasons shall issue.

It is ordered that:

1. The total amount the the Purchaser shall pay the Tenant is \$13,548.00. This amount represents:

- \$13,500.00 for general compensation.
 - \$48.00 for the cost of filing the application.
2. The Purchaser shall pay the Tenant the full amount owing by January 19, 2026.
 3. If the Purchaser does not pay the Tenant the full amount owing by January 19, 2026, the Purchaser will owe interest. This will be simple interest calculated from January 20, 2026 at 4.00% annually on the balance outstanding.
 4. The Tenant has the right, at any time, to collect the full amount owing or any balance outstanding under this order.

January 8, 2026

Date Issued

Jane Dean

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.