Order under Section 57
Residential Tenancies Act, 2006

File Number: LTB-T-094698-24

In the matter of: B, 116 EAST BALFOUR ST
SAULT STE. MARIE ON P6C1X5

Between: Ken Vanschooneugld
Linda Vanschooneveld
Tenants

And

Doug Belanger
Landlord

Ken Vanschooneugld and Linda Vanschooneveld (the 'Tenants') applied for an order determining that Doug Belanger (the 'Landlord') gave a notice of termination in bad faith.

This application was heard by videoconference on June 19, 2025.

Only the Tenants attended the hearing.

As of 10:15 a.m., the Landlord was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Tenants' evidence.

Determinations:

1. As explained below, the Tenants proved the allegations contained in the application on a balance of probabilities. Therefore, the Landlord must pay the Tenants $11,163.00, inclusive of the cost of filing the application and $5,000.00 to the LTB for an administrative fine.

2. Subsection 57(1)(a) of the *Residential Tenancies Act, 2006* (the 'Act') requires the Tenants to prove each of the following on a balance of probabilities:

    1. The Landlord gave the Tenants an N12 notice of termination under section 48 of the Act;
    2. The Tenants vacated the rental unit as a result of the N12 notice of termination;
    3. No person referred to in subsection 48(1) of the Act occupied the rental unit within a reasonable time after the Tenants vacated; and
    4. The Landlord served the N12 notice of termination in bad faith.

3. The rental unit contains two bedrooms and one bathroom and is located on the upper level of a quadplex building.

4. The Tenants were served with an initial flawed notice of termination under section 48 of the Act on December 29, 2023, then with a second notice of termination also under section 48 on January 15, 2024, with a termination date of March 31, 2024. The notice stated that the Landlord intended to occupy the unit for at least one year. Copies of both N12 Notices were submitted at the hearing.

5. The Tenants testified that they vacated the rental unit on February 28, 2024 because of the N12 notice. The Landlord informed the Tenants that his mother was very ill and both parents had mobility issues. The Landlord intended to move his parents into one of the other units he owned at 114 East Balfour Street and served the tenants of that unit with an N12 notice as well. The Landlord could thus move into the Tenants' unit and be close by so that he could provide care for his parents. The Tenants submitted a copy of the Landlord's signed Declaration and a letter from the Landlord's employer disclosed to them confirming he was approved for compassionate care leave as evidence.

6. The Tenants testified that the Landlord did not move into the rental unit after they vacated. The Tenants discovered that the Landlord posted the Tenants' unit for rent on May 28, 2024. The Tenants kept an eye on the rental unit and saw new tenants moving into the quadplex on July 1, 2024. The Tenants submitted a copy of the Facebook advertisement and a picture of new tenants moving in as evidence.

7. Subsection 57(5) of the Act states:

   > For the purposes of an application under clause (1)(a), it is presumed, unless the contrary is proven on a balance of probabilities, that a landlord gave a notice of termination under section 48 in bad faith, if at any time during the period described in subsection (6) the landlord,
   >
   > (a) <u>advertises the rental unit for rent</u>;
   >
   > (b) enters into a tenancy agreement in respect of the rental unit with someone other than the former tenant;
   >
   > (c) advertises the rental unit, or the building that contains the rental unit, for sale;
   >
   > (d) demolishes the rental unit or the building containing the rental unit; or
   >
   > (e) takes any step to convert the rental unit, or the building containing the rental unit, to use for a purpose other than residential premises.
   >
   > [Emphasis added]

8. Though the evidence of whether the unit was re-rented is speculative, the submitted advertisement of the unit for rent within one year after the Tenants vacated and the Tenants confirming the unit address on the advertisement, is sufficient to satisfy me that subsection 57(5) of the Act applies in this situation. Therefore, it is for the Landlord to prove on a balance of probabilities that they did not give a notice of termination under

section 48 in bad faith. However, I may also take into consideration that bad faith is not confined to the moment in time when a landlord gives a tenant the notice of termination (see *TST-94914-18* and *TST-87742-17-RV*). I may also take into account events during the notice period up until the date the Tenants vacated the unit.

9. The Landlord was not present to rebut the presumption of bad faith as set out in subsection 57(5) of the Act.

10. The Tenants testified that they offered the Landlord additional rent so they could stay in the unit, but the Landlord refused. The Tenants were paying the lowest rent in the residential complex and discovered that the other tenants who received the N12 notice for 114 East Balfour Street were also paying the lowest rent in that quadplex. The Tenants thus find it suspicious that the two units with the lowest rent were the ones served with N12 notices.

11. The Tenants also testified that they were made aware that the Landlord's mother had passed away in August 2024 when they came across her obituary, however this was after the Facebook advertisement for the unit was posted in May 2024.

12. Having considered the uncontested submissions before me, I am satisfied on the balance of probabilities that the Tenants have proven the requirements under subsection 57(1)(a) of the Act showing the Landlord gave a notice of termination in bad faith. The Tenants received an N12 notice, and I accept their testimony that they vacated as a result of the notice. There was no evidence that the Landlord moved into the rental unit within a reasonable time after the Tenants moved out, and this was supported by evidence that the unit was listed for rent within three months of the Tenants vacating. As subsection 57(5) of the Act applies in this instance, it was for the Landlord to rebut the presumption of bad faith, and no such submissions were provided. Therefore, I find the Tenants have proven the allegations in the application.

<u>Remedies</u>

13. The Tenants seek an order that the Landlord pay the increased rent they incurred for the one-year period after they vacated the rental unit. The difference in rent between the old unit ($840.00 per month) and the new unit ($1,310.00 per month) is $470.00 per month. Therefore, based on the evidence before me, I find that the Landlord must pay the Tenants $5,640.00 ($470.00 x 12 months) for the increased rent that the Tenants have incurred or will incur for the one-year period after the Tenants moved out of the rental unit.

14. The Tenants request that the Landlord pay a fine to the Board for serving them a notice of termination in bad faith. The Tenants lived in the rental unit for twelve years only to discover the unit was then advertised for rent at almost double the price ($1,600.00 per month) within three months after they vacated. The Tenants perceive the Landlord's conduct as egregious and should be strongly discouraged from happening again.

15. Having considered the criteria in the Board's <u>Interpretation Guideline 16: Administrative Fines</u>, I find a fine of $5,000.00 appropriate in the circumstances to deter the Landlord

from similar conduct in the future. The Landlord uprooted long-standing Tenants from their home of over a decade only to advertise the unit for rent again shortly thereafter for a significantly increased amount. There was no evidence the Landlord moved into the unit after the Tenants vacated, and it is more likely than not the Landlord chose to remove those Tenants as they were paying the lowest rent within the residential complex. Therefore, I find that the Landlord must pay a fine to the LTB of $5,000.00 to discourage such conduct in the future.

16. The Tenants claim $470.00 for out-of-pocket moving expenses as a result of having to move out of the rental unit. The Tenants' testimony and application state that they rented a U-Haul truck and paid four of their son's friends $100.00 each to assist with the move because of the Tenants' mobility issues. Given the Tenants' testimony and the amount claimed, I find $470.00 reasonable in the circumstances and order the Landlord to pay the full amount.

17. Pursuant to subsection 57(3)(1.1) of the Act, the Tenants also seek an order that the Landlord pay $5,000.00 as general compensation. Subsection 57(3)(1.1) provides that general compensation may be ordered regardless of whether the Tenants have incurred any actual expenses.

18. The Tenants testified that they received the first N12 notice when their grandchildren were visiting for the holidays. The Tenant, Ken Vanschooneugld, was also recovering from knee surgery, while the other Tenant, his wife Linda Vanschooneugld, was recovering from cancer treatments. The Tenants were seniors who felt completely overwhelmed at the thought of having to leave their home of 12 years in their current physical state with no where else to go.

19. In considering the Tenants' claim for general compensation, I have looked at how the Landlord's breach impacted the Tenants. I accept that having to move out of the rental unit caused the Tenants significant stress relating to their health and change in environment. Given the uncontested evidence before me, I find that an award in the requested amount of $5,000.00 adequately compensates the Tenants for the mental distress they endured as a result of the Landlord's failure to act in good faith.

It is ordered that:

1. The total amount the Landlord shall pay the Tenants is $11,163.00. This amount represents:

    - $5,640.00 for increased rent the Tenants have incurred for the one-year period from March 1, 2024 to February 28, 2025.
    - $470.00 for the reasonable moving, storage and other like expenses that the Tenants have incurred as a result of having to move out of the rental unit.
    - $5,000.00 for general compensation.
    - $53.00 for the cost of filing the application.

2. The Landlord shall pay the Tenants the full amount owing by January 19, 2026.

3. If the Landlord does not pay the Tenants the full amount owing by January 19, 2026, the Landlord will owe interest. This will be simple interest calculated from January 20, 2026 at 4.00% annually on the balance outstanding.
4. The Tenants have the right, at any time, to collect the full amount owing or any balance outstanding under this order.
5. The Landlord shall pay to the LTB an administrative fine in the amount of $5,000.00 by January 19, 2026.

January 8, 2026
Date Issued

Fotoula Hatzantonis
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.

Payment of the fine must be made to the LTB by the deadline set out above. If not paid, the outstanding amount may be sent to a collection agency and/or the party owing the money may not be permitted to file a new application until it is paid in accordance with section 196 the Act.

The fine can only be paid by money order, bank draft or certified cheque payable to the "Minister of Finance". The payment can be mailed or couriered to the LTB at 25 Grosvenor Street, Ground Floor, Toronto, ON M7A 2G6 or dropped off at most Service Ontario locations.