Order under Section 57
Residential Tenancies Act, 2006

Citation: Frazier v Reinink, 2026 ONLTB 1176
Date: 2026-01-12
File Number: LTB-T-004902-24

In the matter of: 382 VICTORIA RD N
GUELPH ON N1E5J7

Between: Laci Frazier
Stefano Fontana

Tenants

And

Frank Reinink
Emily Reinink

Landlords

And

Darlene Gray
Matthew Priestly-Campbell
Jordyn Gray-McInnis

Purchasers

Laci Frazier and Stefano Fontana (the 'Tenants') applied for an order determining that Frank Reinink and Emily Reinink (the former 'Landlords') and that Darlene Gray, Matthew Priestly-Campbell and Jordyn Gray-McInnis (the ‘Purchasers’) gave a notice of termination in bad faith.

This application was heard by videoconference on December 22, 2025.

The Landlords Frank and Emily Reinink, the Purchasers Matthew Priestly-Campbell and Jordyn Gray-McInnis and the Tenants Laci Frazier and Stefano Fontana attended the hearing.

The Landlords’ witness Shivam Taneja and the Purchasers’ witness Joy Chhina also attended the hearing.

Determinations:

Issues

1. The Tenants bring this application under section 57 of the *Residential Tenancies Act, 2006* (the ‘Act').
2. They allege that the Landlords served them with a notice of termination for purchaser’s own occupation of the Tenants’ rental unit in bad faith or, alternatively, the Purchasers caused the Landlords to give them the notice without having any genuine intent to reside in the rental unit.

3. The Tenants assert that they vacated because of the notice and that the Purchasers never moved into the rental unit as required by section 49 of the Act. The Tenants ask the Board to find that one or both Respondents acted in bad faith and to grant the remedy requested in the application.

4. As explained below, I am satisfied on the balance of probabilities that the Respondents are jointly responsible for bad faith conduct.

The Law

5. Subsection 57(1)(b) of the Act requires the Tenants to prove that it is more likely than not that:

    - the Landlords gave the Tenants an N12 notice of termination under section 49 of the Act for purchaser's own use;
    - the Tenants 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 Tenants vacated; and
    - the N12 was served in bad faith by the vendor Landlords or the Purchasers, or both.

6. The concept of good faith means that parties to a transaction will act in an honest and transparent way towards all affected individuals, having appropriate regard for the interests of the others. Good faith is absent any conduct which would take unfair advantage of another, such as by concealing relevant facts or by choosing to ignore the need to disclose important information, especially if the behaviour is meant to escape or avoid responsibility.

7. In *Elkins v. Van Wissen*, 2023 ONCA 789, the Ontario Court of Appeal held that when deciding an application based on an N12 notice of termination ('N12') under section 49 of the Act, the LTB must consider the context of the transaction and scrutinize the surrounding circumstances to assess the good faith of the participants.

8. The Court confirmed that the vendor landlord's conduct is intrinsically connected to the purchaser's good faith conduct. Therefore, the Board must consider all the evidence before it in respect of the vendor landlord's and the purchaser's conduct relating to an allegation of bad faith; it is insufficient to only assess whether the landlord acted in bad faith in serving the N12.

9. This is consistent with section 202 of the Act. The provision provides that "In making findings on an application, the Board shall ascertain the real substance of all transactions and activities relating to a residential complex or a rental unit *and the good faith of the participants*". [emphasis added]

10. The *Elkins* Court also discussed circumstances which would constitute unlawful eviction:

    (i) when a vendor landlord is authorized or directed by the purchaser to give an N12, the landlord serves the N12 in good faith, but the purchaser does not, in fact, genuinely require personal possession of the rental unit,

    (ii) the landlord and the purchaser each act independently in bad faith, or

    (iii) they collude in bad faith to oust the tenant to their mutual advantage.

11. If the Board finds that the N12 was given in bad faith, subsection 57(3)4 of the Act gives the Board the power to make an order against the vendor landlord alone, the purchaser alone or against both. If both, the Board will consider apportioning liability in accordance with the degree of responsibility for the bad faith conduct.

The undisputed facts

12. The rented premises is a detached 3-bedroom bungalow with a finished basement. There is a rental unit in the basement, which was vacant when the Purchasers viewed the property before making an offer to purchase. The Tenants occupied the upper unit.
13. On August 14, 2023, the Purchasers made an offer to buy the property.
14. On August 15, 2023, the vendor Landlords and the Purchasers entered into an Agreement of Purchase and Sale ('APS'). Schedule A to the APS states:

    "The Seller and Buyer agree that vacant possession will be provided by the completion of the transaction. Buyer and Seller further agree and acknowledge that the Buyer will not be assuming any tenants."

15. Schedule B to the APS states that the Purchasers acknowledge that the basement unit has not received municipal approval for meeting the legal requirements of being a rental unit as this relates to the Purchasers' proposed or future use of that space.
16. At some point after the APS was signed, the Landlords informed the Tenants of the pending sale.
17. On August 25, 2023, the Landlords texted the Tenants to give "official notice" that they had themselves bought a home and needed the sale of the Tenants' rental unit "closed".
18. On August 28, 2023, the Landlords gave an N12 to the Tenants with a termination date of October 31, 2023. The N12 states that the Purchasers intend to move into the unit. The N12 service coincided with the Purchasers fulfilling the financing condition in the APS.
19. The Landlords paid the Tenants compensation equal to one month of rent before the termination date.
20. The Landlords told the Tenants multiple times that the Purchasers were eager to move in and asked the Tenants if they could move out "sooner than later". The Landlord F.R. repeated this up to the day the Tenants vacated.
21. The Tenants moved out of the unit on October 30, 2023 because of the N12.
22. The Purchasers did not occupy the unit within a reasonable time after the Tenants vacated. About 8 days after the Tenants left, the Purchasers advertised the rental unit for rent for $2,850.00 monthly. This was about $800.00 more per month than the Tenants were paying. The Purchasers in due course rented the units to new tenants.

The likelihood that the N12 was given in bad faith

23. On the face of it, the N12 was given in bad faith. That is because the Purchasers did not move into the former Tenants' rental unit in accordance with the N12. This was a statutory good faith requirement under section 49 of the Act.
24. It is also consistent with giving the N12 under false pretense, contrary to the Act.

25. It is up to the Landlords to demonstrate in response that they gave the N12 in good faith.

Evidence of the Landlords' conduct

26. The Landlords claim that their real estate agent S.T. informed them that the Purchasers' real estate agent J.C. had advised them of the Purchasers intent to move into and live in the rental unit.

27. S.T. testified to the communications he had with the Purchasers' agents during the offer to purchase phase. He stated that he was under the impression from a phone conversation he had with J.C. or someone from J.C.'s office that the Purchasers/new owners were going to reside in the house. He asserts that he was not aware, ever, that the Purchasers were buying the house to re-rent it.

28. He testified that "they did not put in a clause [in the APS] that vacant possession is required", which I understood to mean required for the purpose of property investment.

29. I have considered that it is possible that S.T. interpreted the broadly worded clause in the APS as confirmation that the Purchasers wanted vacant possession, with no tenants, for their own *personal use*. If so, he might have leapt to what he thought was the commonsense conclusion, which was that the Purchasers intended to reside in the unit.

30. Additionally, S.T. may have been swayed by an email the Purchasers' office administrator S.G. sent to S.T.'s team partner/spouse I.S. on Aug 14, 2023. S.G. wrote to I.S. to say that the Purchasers were interested in the property and asked I.S.:

    "1. It's currently tenanted, do you have current leases? Month to month? Lease expires when?"

31. About 15 minutes later, I.S. responded:

    "1) It's currently rented, it's month to month now as tenants has been there for last 2+ years.

    2) Current rent is $2000 from main level and $1800 from Basement.

    3) If you need vacant possession need closing more than 60 days."

32. S.T. believes J.C. was knowledgeable about the provisions in the Act relating to the sale of a rental property. He takes the position that J.C.'s communications effectively implied that the Purchasers were intending on living in the rental unit upon closing because that was the only lawful way for them to obtain vacant possession of a tenanted property under the Act. S.T. conceded that he did not then write to J.C. to confirm the Purchasers' intent.

33. I have considered that no evidence was presented to show that J.C. had suggested to S.T. that the Landlords serve the N12 on behalf of the Purchasers or that it was tacitly understood between them that an N12 would be given.

34. In fact, S.T. did not, and could not produce, documentation of any crucial communications with the Tenants and with the Purchasers' agents to support his version of events. He could not recall dates of conversations and admitted he kept no written records of them.

35. The Landlord F.R. emphasized that, because of S.T. passing along this information, they subsequently gave the N12 to the Tenants. That was the sole reason they delivered the

N12 on behalf of the Purchasers. He acknowledged that he never informed S.T. that they were serving, or had given, the Tenants the N12.

36. Upon review, the APS is silent about an N12 and makes no mention of the Act or of relevant LTB processes, although the MLS listing for the property describes the property as tenanted.

37. Despite S.T.'s firm belief that the Purchasers genuinely intended to reside in the unit, the Landlords and S.T. will be aware that a landlord can only serve an N12 with the purchaser's written authorization.

38. I find the Landlords' claim that they relied upon S.T.'s information inadequate justification for serving the N12.

39. In *Duarte v. 2132338 Ontario Ltd.*, 2021 CanLII 146522 (Ont. LTB), Member K. Lundy addresses the duties of parties in these kinds of transactions.

40. The landlord in *Duarte* informed the tenants that his real estate agent had received notice from the purchaser's real estate agent that the purchasers "wanted the unit for personal use." (para. 21) In finding bad faith conduct by the landlord, Member Lundy determined at para. 22, as follows (as cited in *Elkins* at para.50):

> "However, in relaying the Purchaser's intentions to terminate the tenancy, the Landlord does not serve as a mere messenger with no duties or obligations to the Tenants. By conveying the Purchaser's stated intention to occupy the rental unit, the Landlord initiated events that had the serious consequence of ending the tenancy and compelling them to relocate their family, a substantial undertaking even in the absence of a global pandemic. As a result, I find that the Landlord had a duty to the Tenants to exercise *some* due diligence to confirm the good faith intentions of the Purchaser before putting the eviction in motion. Otherwise, an unscrupulous purchaser would be free to use a landlord as a straw man to divest tenants of their housing and thereby evade the statutory protections afforded to them under the Act."

41. In other words, landlords have a duty under the Act to ensure that, before serving an N12 for purchaser's own use, they have sufficiently satisfied themselves that the purchaser genuinely intends to move into the rental unit and that the purchaser is requiring the landlord to give the tenant the N12.

42. There is no dispute that the Landlords served the N12 without obtaining the Purchasers' permission.

43. I have also taken into account that the Landlords had a vested interest in ensuring the property sale was successful and followed a defined timeline. The Tenants' evidence is that F.R. told them that they were transferring their own mortgage for this residential complex to another property that they were buying, the purchase of which would close around the same time.

44. The Tenants' description of the escalating pressure placed upon them by the Landlords is not insignificant. I accept that the Tenants were led to believe, rightly or wrongly, that if they did not move out they would be responsible for getting in the way of the impending sales of two properties, the legal processes of which were already in motion.

45. In my view, the Landlords ought to have:

    - asked the Purchasers to provide a sworn affidavit or declaration affirming that they intended to become the new landlords and would assume these Tenants or, alternatively, to confirm that they genuinely intended to reside in the rental unit, as required by subsection 72(1) of the Act.
    - informed the Purchasers that if they intended to live in the unit, they must provide written authorization to the Landlords permitting the Landlords to give the Tenants an N12.
    - discussed with the Purchasers the content of relevant clauses, compliant with the Act, to be inserted in the APS.
    - reviewed with the Tenants the N12 notice terminating the tenancy or suggested that they obtain suitable advice about their options.

46. The Landlords failed to give due attention to these reasonable steps. A failure to act diligently will amount to bad faith conduct.

47. In consideration of the above, the evidence is that the Landlords acted in bad faith. The Landlords were unable to sufficiently demonstrate good faith conduct.

Did the Purchasers in good faith genuinely require the rental unit for residential occupation?

48. The Purchasers' consistent position is that they always intended to buy an investment property without sitting tenants. They are absolute in their claim that they never informed their real estate agents that they were going to reside in the rental unit.

49. J.C. was adamant in his testimony that he never told S.T. that his clients, the Purchasers, intended to occupy the rental unit as their personal residence.

50. I am satisfied that the Purchasers did not require the rental unit for their own residential occupation. I also find that the Purchasers did not authorize the Landlords to give the N12. Having no part in that process, they cannot be found to have engaged in bad faith conduct in respect of the N12 service.

51. However, the application of section 202 of the Act means that the Boards' inquiry does not end there.

52. The Board is obligated to assess the evidence to determine the real substance of what occurred and to ascertain whether the Respondents consistently acted in good faith throughout the events which unfolded.

53. This means that the Purchasers must persuade the Board that they also acted in good faith throughout.

Did the Purchasers otherwise engage in bad faith conduct?

54. For the reasons below, I find that the Landlords do not bear the sole responsibility for the absence of good faith but that bad faith liability is shared with the Purchasers.

55. Prospective purchasers of a tenanted property may be culpably involved in bad faith conduct, either directly or by being complicit in transactional events as they develop. They may be liable because of their negligence or omissions, if these ultimately led or significantly contributed to an unlawful and untimely termination of the tenancy.

56. The Purchaser J.G-M. testified that she and M.P-C. agreed to the vacant possession clause in Schedule A as it was worded because they understood from their real estate agent J.C. that the Landlords' agents had effectively guaranteed that the Tenants were moving out on their own accord before the sale closed.
57. She stated that they had no idea that the Landlords had served the N12 on the Tenants or that the N12 was the reason the Tenants moved out of the unit.
58. J.C. maintains that the Landlords were well aware that the Purchasers were buying an investment property. He refers to the email exchange on August 14, 2023, which he submits sets out the Landlords' offer of three purchase options. The Purchasers "chose Option #3" described as "vacant possession".
59. He reasoned that "clearly the Landlords and the Tenants had an agreement to vacate" contemporaneous to when the APS was signed. However, he led no corroborating evidence explaining how he reached this conclusion.
60. Neither could J.C. satisfactorily explain how he determined that the Landlords' agent's comment in their email, "If you need vacant possession need closing more than 60 days", created an "option" or a valid legal offer.
61. J.C. did refer to an email his office administrator S.G. sent to the Purchasers on January 6, 2024, about two months after the Purchasers became the new owners. The email was in response to the Purchasers becoming aware that an LTB order had been made against them following an LTB hearing of the Tenants' original T5 application. The Purchasers did not attend that hearing.
62. In the email, S.G. recounted their version of events. She explained that "the Tenants were month to month. It was our understanding that the Tenant and the Landlord agreed and at their own accord they were moving out with agreement with their landlord. We at no point communicated we would be occupying the unit at any time".
63. She further stated in the email, "We did not received (sic) any communication nor did we communicate in any way (in conversation or otherwise) that we would be occupying the unit. I did explain to the listing agent that my buyers are investors who are looking to rent out the unit."
64. J.C. presented no proof of any communications from S.T. or I.S. which definitively confirmed that the Tenants had given an N9, that the Landlords and Tenants had signed an N11 or that the LTB had issued an termination order, and he never asked for these.
65. He submitted no documents to show that he or his agents clearly asserted to S.T. or I.S. in writing at any time that the Purchasers would not occupy the unit or that the Purchasers were seeking vacant possession so that they could re-rent the units to new tenants.
66. S.T.'s position is that he did not inform J.C. and his agents that the Tenants were vacating for unrelated reasons. He implies that he would not have done because the Purchasers were taking occupancy of the house.
67. J.G-M. further contends that, had they known before they signed the APS that these Tenants wanted to stay, they would not have insisted on acquiring vacant possession. Rather, the Tenants could have chosen to stay, and the Purchasers would have taken over

the property as the new Landlords. She noted that this would have saved them from having to search for new tenants when they became the owners.

68. I am not entirely convinced that the Purchasers would have assumed the Tenants. Before signing the APS, they directed J.C. to email the Landlords' agent to ask if the rental property was tenanted and for information about the lease(s). They were immediately notified by the Landlords' agent that there were sitting tenants.

69. The APS signed the next day contains no clause in which the Purchasers indicate they are willing to assume the Tenants. Instead, the Purchasers drafted the "vacant possession" clause, seemingly within hours of receiving confirmation of the existing tenancy.

70. One would reasonably expect the Purchasers to reply to the Landlords to specifically ask if the Tenants were willing to stay prior to signing the APS. I draw a negative inference from their neglect in following up: since the Purchasers were aware of the existing tenancy before they signed the APS, and since they declined to remove the "vacant possession" clause, the realistic conclusion is that they consciously rejected the idea of becoming landlords to these Tenants.

71. Correspondingly, the Purchasers provided no basis upon which they could have reasonably concluded that the Tenants were "voluntarily" moving out of the rental unit.

72. Touching on the Tenants' evidence, the Tenants say in their application that they met with the Purchasers and J.C. once during a showing of the unit. They did not receive the impression that the Purchasers had no intention of moving into the house. Yet, at this hearing, the Purchasers denied ever meeting the Tenants.

73. I have no reason to doubt the Tenants, as they made this assertion less than three months after they vacated.

74. All in all, I do not find the Purchasers' position particularly credible.

75. The Purchasers had duties under the Act. One obligation was to properly ascertain that the Tenants had made a voluntary, informed choice to end the tenancy for their own reasons and that a tenancy termination complied with the Act. They omitted to make those inquiries and the Board might find this amounts to conscious avoidance, or contrived ignorance.

76. The Purchasers ought to have confirmed with the Landlords in writing:

    - whether they would step into the shoes of the Landlords or whether they genuinely intended to reside in rental unit when they became the property owners.
    - that, if it was the case that the Tenants were voluntarily moving out, the Landlords would need to provide proof by way of a sworn affidavit or declaration that they received the Tenants' N9 or that the Landlords and Tenants freely entered into an N11 or, alternatively, provide proof of an LTB order terminating the tenancy.
    - content of relevant clauses compliant with the Act to be inserted in the APS.

77. Finally, I further note that the Tenants were paying $2,048.67 monthly for rent when they vacated. The Purchasers raised the monthly rent by $800.00 when they advertised the unit about one week after becoming the owners. This makes me wonder whether the

Purchasers would have been content to maintain the lower rent and forego a substantial financial gain had they become the landlords to these Tenants.

78. Based on the above, I find that the Purchasers were sufficiently connected to the situation in a manner and to a degree of fault which resulted in the Tenants vacating early, and not of their own accord. Therefore, the Purchasers are deserving of some blame.

Reliance on third party representations

79. As far as I can assemble from the evidence and submissions presented, the problems can be traced to a sequence of events occurring within a relatively short period of time. These involved intense but fragmented communications between the Respondents' real estate agents, which seemed to be most often relayed verbally to the Landlords, Tenants and Purchasers.

80. Various assumptions and hurried, careless decisions were made which escaped proper review by lawyers who would ensure compliance with the Act before the sale closed.

81. All of this strains credulity.

82. The Landlords and the Purchasers relied upon their experienced real estate agents' representations when asserting that it was the other party who acted in bad faith.

83. In *Ciarrochi* v. *Tyler*, 2024 ONLTB 68691 (CanLII) ("*Ciarrochi*"), the landlord served an N12 on the tenants "because he knew that the purchasers would not go ahead with the purchase unless they received the property with vacant possession." (para. 27) Both parties "left all the negotiations and discussions up to their real estate agents". (para. 25)

84. The LTB determined that landlords and purchasers "do not evade bad faith merely because they relied on the word of their agents". (para. 25)

85. As in *Ciarrochi,* here the Respondents were content to have all discussions managed by their realtors. They relied upon unclear and incorrect verbal representations with the full knowledge that the decisions they made could negatively impact the Tenants, who were given no opportunity to participate in the discussions and who received no accurate information although the property under sale was significant to them - it was their home.

86. In their haste to achieve a successful transaction, the Respondents discounted the Tenants' right to make a fully informed decision whether to vacate or, alternatively, to fight the eviction process through the LTB as was their entitlement.

87. They each failed to have appropriate regard to the Tenants' legitimate interests in the transaction.

The deficiencies in the APS

88. As commentary, I note that the Board routinely hears these kinds of cases. Where parties have exercised appropriate diligence, a standard clause an APS for a tenanted property might contain the following:

- "In the event that vacant possession cannot be obtained prior to closing, for any reason, then the Buyer shall have the option in the Buyer's sole and absolute discretion to complete the transaction and accept the Tenant, or to cancel the purchase and sale agreement and have any deposit returned to them, [with or without interest in accordance with what the parties decide] or deduction."

- "The Buyer hereby authorizes and directs the Seller, and the Seller agrees, when this Agreement becomes unconditional, to give the tenant(s) the requisite notice under section 49 of the Residential Tenancies Act (RTA), requiring vacant possession of the property effective (X date)."
- "The Buyer agrees to provide to the Seller a declaration or sworn affidavit that the Buyer genuinely in good faith intends to occupy the property as their personal residence [or does not intend to occupy the property as their personal residence]."

89. I am unable to comprehend how two parties who are each owners of investment properties and landlords, and how two experienced realtors, could create such an untenable situation.
90. I find that the Respondents are jointly and independently responsible for taking bad faith actions to terminate the tenancy and oust the Tenants without adhering to the lawful process required by the Act.
91. The adverse consequences of the combined bad faith conduct were significant to the Tenants. The Tenants are entitled to a remedy.

Apportionment of liability

92. The next step is to apportion liability in light of the payment of compensation to the Tenants as they have requested.
93. As Vice-Chair R. Carey stated in *Elkins* v. *Van Wissen*, 2024 ONLTB 45845 (CanLII), at para. 90, "In the absence of any reasoned argument as to why apportionment should occur and in what degree … I believe joint liability is appropriate".
94. The parties are unable to agree upon how to quantify proportionate responsibility. Therefore, I am of the view that the Respondents should be held equally liable.

Remedies

95. The Tenants seek the following remedies, which I find appropriate in the circumstances:
    - $9,615.96 for the increased monthly rent of $801.33 that the Tenants incurred for a one-year period after the Tenants moved out of the rental unit.
    - $138.62, which reflects the reasonable out-of-pocket moving, storage and other like expenses that the Tenants incurred because of having to move out of the unit.

It is ordered that:

1. The total amount the former Landlords and the Purchasers shall pay to the Tenants is $9,807.58. This amount represents:
    - $9,615.96 for increased rent for the one-year period from October 31, 2023 to October 30, 2024.
    - $138.62 for the reasonable moving, storage and other like expenses.

- $53.00 for the cost of filing the application.

2. The former Landlords and the Purchasers shall each pay the Tenants 50% of the full amount owing ($4,903.79 each) on or by January 23, 2026.
3. If either the former Landlords or the Purchasers do not pay the Tenants the full amount owing on or by January 23, 2026, the former Landlords and the Purchasers will owe interest. This will be simple interest calculated from January 24, 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.

January 12, 2026
Date Issued

Elle Venhola
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.