



**Order under Section 57
Residential Tenancies Act, 2006**

File Number: LTB-T-030374-25

In the matter of: 51 Briar Knoll Drive
Kitchener ON N2E1X9

Between: Ashley Dowsling
Daniel Dowsling
Tenants

And

Colleen Magarin
Landlord

Ashley Dowsling and Daniel Dowsling (the 'Tenants') applied for an order determining that Colleen Magarin (the 'Landlord') gave a notice of termination in bad faith.

This application was heard by videoconference on December 10, 2025.

The Landlord, the Landlord's Legal Representative, Megan Kish, and the Tenants attended the hearing.

Determinations:

1. As explained below, the Tenant did not prove the allegations contained in the application on a balance of probabilities. Therefore, the application is dismissed.

Findings of Fact:

2. On consent the parties agreed to the following facts:
 - a. The Landlord served an N12 notice of termination on the Tenants on March 15, 2024;
 - b. The Tenants vacated the rental unit as a result of receiving that N12 notice on May 31, 2024;
 - c. The Landlord's son did move into the rental unit on June 1, 2024;
 - d. The Landlord's son lived in the rental unit until April 3, 2025; and
 - e. The Landlord posted the property for sale on April 8, 2025.

The Landlord gave the N12 Notice for own use in Good Faith:

3. Subsection 57(1)(a) 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 48 of the Act;
 - The Tenant vacated the rental unit as a result of the N12 notice of termination;
 - No person referred to in subsection 48(1) 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
4. As the parties agreed that the Landlord had listed the rental unit for sale within the 12-month time period, which invokes section 57(5)(c) of the Act where it is presumed that the Landlord gave the N12 notice in bad faith unless they provide evidence to rebut the presumption.
5. The Landlord testified that her son moved into the rental unit on June 1, 2024 with his girlfriend with the intention of residing in the home on a long term basis. Her son had started making repairs to the rental unit as he intended it to be his home.
6. The Landlord testified that everything was fine until February 2025 when her son was hospitalized during a work trip in Saskatchewan. During his second day of training, her son was found having a seizure by a coworker and was hospitalized. The Landlord and her oldest son flew to Saskatchewan to be with her son at the hospital. The Landlord submitted documentary evidence that demonstrated during the week her son's brain was still flaring and made the chance of further seizures likely, and imaging showed that he was still having small seizures in a specific area of his brain. The Landlord testified her son had never had seizures prior to this hospitalization.
7. After returning to Ontario, her son was off of work for 2 months and was not allowed to drive for 6 months. They were provided no reason for why the seizures had started or the exact cause. The Landlord testified her son needed to spend nights at her house as he needed someone close in the event of another seizure. The Landlord testified that her son suffered from memory loss, the seizure impacted his personality and maturity, and he was struggling with the healing process. Her son would spend the day at the rental unit to give him some independence but could no longer sleep there alone.
8. The Landlord testified that she decided to sell the rental property and her own house to buy a property that would have a basement apartment so her son could live with them while still having some sense of independence. The Landlord stated she did not even consider the 12-month time period as she just needed her son to be somewhere he could be safe. The Landlord testified that if the seizures had never started, her son would still be living in the rental unit and the medical condition was not something she could have foreseen at the time the N12 notice was served.
9. The Tenants did not dispute that the Landlord's son had experienced seizures, but they submitted that the medical condition was not so severe as to require the rental unit to be sold.

10. The Tenants stated the hospital discharge papers showed that the Landlord's son was independent. The Tenants also submitted that the lack of a home care plan demonstrated that there was not a serious medical condition. The Landlord testified that the discharge papers showed her son was able to feed himself and use the washroom without assistance, not that he was independent.
11. Based on the evidence provided, I am satisfied that the Landlord has rebutted the presumption of bad faith. I am satisfied that the Landlord served the N12 notice in good faith and her son genuinely intended to live in the rental unit for at least 12 months. I accept the Landlords' evidence that her son moved into the rental unit the day after the Tenants vacated and lived in the rental unit, and continued to live there until April 2025. I further accept that her son experienced an unforeseen and serious medical event in February 2025 that changed the Landlord's family's priorities. I accept that that the Landlord decided to sell the rental unit as a result of her change of circumstances. As a result, I am satisfied that the Landlord served the N12 in good faith.
12. As the Tenants did not establish the bad faith of the Landlord in serving the N12 notice, the application must be dismissed.

It is ordered that:

1. The Tenant's application is dismissed.

January 6, 2026
Date Issued

Allana McComb
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.