



Order under Section Residential Tenancies Act, 2006

Citation: Trottier v Rathwell, 2026 ONLTB 2218

Date: 2026-01-08

File Number: LTB-L-048928-25

In the matter of: Granny Suite Bsmt, 193 Hillside Drive South
Elliot Lake ON P5A1N4

Between: Nelson Trottier Landlord

And

Lee Rathwell Tenant

Nelson Trottier (the 'Landlord') applied for an order to terminate the tenancy and evict Lee Rathwell (the 'Tenant') because:

- the Landlord in good faith requires possession of the rental unit for the purpose of residential occupation for at least one year.

This application was heard by videoconference on August 28, 2025.

The Landlord and the Tenant attended the hearing.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the tenancy is terminated as of January 31, 2026.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On May 27, 2025, the Landlord gave the Tenant an N12 notice of termination with the termination date of July 31, 2025. The Landlord claims that they require vacant possession of the rental unit for the purpose of their own residential occupation.
4. The Landlord has compensated the Tenant an amount equal to one month's rent by July 31, 2025.
5. There is no last month's rent deposit.

Landlord's Evidence

6. The Landlord testified that he presently lives with his former spouse on the upper level of the home. The Landlord stated he and his former spouse have been separated for many years and have thought about selling the property but there is insufficient equity in the home that would afford the couple the financial means to live separately.
7. The Landlord testified he is presently 76 years old and has severe health issues. The Landlord would like to make accessibility modifications to the basement unit so that he can live there independently, and his former spouse can remain living in the upper part of the house also independently.
8. The Landlord testified that he has remortgaged the home in order to pay for the renovations that will be required to widen the door of the rental unit, remodel the bathroom to make it wheelchair accessible, and to place a chair lift on the outside of the house. The Landlord submitted correspondence from his financial institution confirming the Landlord's loan.
9. The Landlord also submitted copies of his building permits outlining the scope of work he plans to do on the rental unit to make it accessible for himself.
10. The Landlord further testified he and his former spouse also looked into the option of moving to long term care but that this option was not financially viable either. As such, the Landlord stated he plans to live in the rental unit permanently.

Tenant's Evidence

11. The Tenant testified that the relationship between the parties has been strained. The Tenant does not believe that the Landlord requires the unit for his own purposes and believes the Landlord served the N12 as retaliation because the Tenant filed a T2 application against the Landlord. The Tenant stated his T2 was filed on May 22, 2025, and the Landlord served him with the N12 just 5 days later.
12. The Tenant also submitted that the building permits submitted by the Landlord are not legitimate and may have been a forgery.

Analysis

13. The Courts have provided much guidance to the Board in interpreting the "good faith" requirement in the context of a landlord seeking possession of a rental unit for the purpose of residential occupation by the landlord.
14. In *Feeney v. Noble*, 1994 CanLII 10538 (ON SC), the Court held that the test of good faith is whether the Landlord has a genuine intention to occupy the premises and not the reasonableness of the landlord's proposal. This principle was upheld in *Salter v. Beljinac* 2001 CanLII 40231 (ON SCDC), where the Court held that the "good faith" requirement simply means that the landlord sincerely intends to occupy the rental unit.
15. In the more recent case of *Fava v. Harrison*, 2014 ONSC 3352, the Divisional Court affirmed that the motives of the landlord in seeking possession of the unit are "largely irrelevant", however the Board can consider the conduct and motives of the landlord to

draw inferences as to whether the landlord desires, to occupy the property in good faith.

16. I found the Landlord to be a credible witness, and I accept his evidence that he in good faith intends to occupy the rental unit for at least one year for the purpose of residential occupation. Applying the principles as set out in the caselaw above, I also accept that the Landlord's "motive" or need to occupy the rental unit exists due to the desire to live separately from his former spouse and the financial struggles that exist if the Landlord does not utilize the rental unit for his own occupation. Though largely irrelevant, I did consider the motive when determining if the Landlord genuinely desires to occupy the rental unit in good faith.
17. Additionally, the Landlord's testimony was corroborated by his documentary evidence. The Landlord presented his lending documents and work permits he obtained from the city to retrofit the unit to become accessible for his physical disabilities. I do not share the Tenant's belief that the work permits are not legitimate. The work permits are signed in wet ink by the Chief Building Official for the city.

Relief from Eviction

18. During the hearing the Tenant argued the application ought to be denied under section 83(3)(c) of the Residential Tenancies Act, 2006 (the 'Act') which states:

Without restricting the generality of subsection (1), the Board shall refuse to grant the application where satisfied that,

...

(c) the reason the application being brought is that the tenant has attempted to secure or enforce his or her legal rights;

83(3)(c) Submissions

19. The Tenant testified that in March 2025, the Landlord engaged in a campaign of interference with his reasonable enjoyment and harassment by removing his parking, shutting off the Wi-Fi, threats to evict him in relation to false accusations that the unit was kept unclean, and threats to put liens on his property in relation to false accusations that the Tenant owed the Landlord money. The Tenant stated he filed his T2 application on May 22, 2025. The Tenant then received the Landlord's N12 notice on May 27, 2025. The Tenant's position is that the N12 was served as a reprisal for his application.
20. I acknowledge the timing of when the Tenant received the Landlord's N12 notice is optically not ideal and that to the Tenant receipt of a termination notice 5 days after filing an application against the Landlord seems suspicious. However, I am not satisfied that this application was brought because the Tenant exercised his right to file an application with the Board. I say this because the Landlord's documentary evidence leads me to the finding that the Landlord had been working towards his plans to occupy the unit prior to the date the Tenant filed his T2 application.

21. Additionally, I find it unlikely that the Landlord would go through the financial jeopardy of remortgaging his home simply to retaliate against the Tenant for filing an application. Similarly, I find it equally unlikely that the Landlord would go through the trouble of applying for building permits if the N12 notice of termination was a reprisal.
22. I find that the timing of the Landlord's N12 is an unfortunate coincidence. The Landlord's building permits were approved on May 26, 2025. It seems logical that the Landlord waited to serve the N12 until he had everything he needed to conduct the planned renovation to the unit.

83(1) Submissions

23. The Tenant testified he is on ODSP and that his income is approximately \$1,600.00 per month. The Tenant stated he has been looking for another unit to rent since May 2025 but that his applications have been turned down due to his poor credit rating.
24. Despite the Tenant's challenges, he testified that he would only need a few weeks of delay to get his affairs in order.
25. The Landlord stated he is agreeable to providing the Tenant with 30 days to vacate.
26. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would not be unfair to postpone the eviction until January 31, 2026, pursuant to subsection 83(1)(b) of the Act.
27. I have considered all of the evidence presented at the hearing and all of the oral testimony and although I may not have referred to each piece of evidence individually or referenced all of the testimony, I have considered it when making my determinations.
28. This order contains all of the reasons for the decision within it and no further reasons will be issued.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before January 31, 2026.
2. If the unit is not vacated on or before January 31, 2026, then starting February 1, 2026, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord on or after February 1, 2026.

January 8, 2026
Date Issued

Melissa Anjema
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.

In accordance with section 81 of the Act, the part of this order relating to the eviction of the Tenant expires on August 1, 2026, if the order has not been filed on or before this date with the Court Enforcement Office (Sheriff) that has territorial jurisdiction where the rental unit is located.