



Order under Section 57 Residential Tenancies Act, 2006

File Number: LTB-T-004977-25

In the matter of: Main floor and Second floor, 177 CALVERLEY
TRAIL
SCARBOROUGH ON M1C3Y4

Between: Alberteena Mends
Joan Gibson
Lionnel Mends

Tenants

And

Subramaniam Sinnathamby

Landlord

Alberteena Mends, Joan Gibson and Lionnel Mends (the 'Tenants') applied for an order determining that Subramaniam Sinnathamby (the 'Landlord') gave a notice of termination in bad faith.

This application was heard by videoconference on July 30, 2025.

The Landlord's legal representative, Narainsamy Appasawmy, the Landlord, The Landlord's witnesses, Suregan Subramaniam, and Vydooran Sinnathamby, and the Tenants, Alberteena Mends and Joan Gibson attended the hearing.

Determinations:

1. 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:
 - The Landlord gave the Tenants an N12 notice of termination under section 48 of the Act;
 - The Tenants 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 Tenants vacated; and
 - The Landlord served the N12 notice of termination in bad faith.
2. The Tenant, Alberteena Mends (AM), stated that in July 2021, the Landlord's property manager requested that the Tenants move out to allow renovations and rerenting of the unit, but the Tenants refused.

3. AM stated that shortly after refusing to move, the Landlord attended the property on July 12, 2021, allegedly to address bathroom maintenance issues. However, no repairs were made, and the Landlord instead took photographs of the floors and ceilings.
4. AM further stated that on July 14, 2021, the Tenants received an N5 notice of termination alleging that they had caused damage to the floors, which AM claimed pre-existed, and attempted to charge the Tenants \$15,000 for repairs.
5. AM testified that on July 31, 2021, the Tenants received an N12 notice of termination, indicating that the Landlord required the unit for his son. On August 1, 2021, the Landlord and unknown individuals attended the unit unannounced, banged on the door, and demanded that the Tenants vacate, threatening eviction.
6. AM stated that on August 10, 2021, the Landlord served another N5 notice, citing other issues and complaints from neighboring tenants.
7. AM explained that due to ongoing harassment and maintenance concerns, the Tenants filed T2 and T6 applications with the Board on October 25, 2021. The matter was heard on March 16, 2023, and the Board issued an order requiring the Landlord to complete maintenance repairs, which were finalized on April 21, 2023.
8. AM stated that on April 22 and May 1, 2023, the Landlord verbally asked the Tenants to move out, citing increasing costs that exceeded his rental income.
9. The Landlord served the Tenants with an N12 notice on May 13, 2023, specifying a termination date of July 31, 2023, indicating that the unit was required for his son.
10. The Tenants vacated the unit on January 31, 2024, following a Board hearing on October 17, 2023, and a Board order requiring them to leave within six months.
11. AM testified that on April 2, 2024, previous basement tenants informed her that the unit was vacant.
12. AM further stated that a friend reported seeing no cars, blinds, or furniture at the rental unit.
13. Tenant Joan Gibson (JG) testified that when she passed the property in May 2024, there were no blinds and the yard was unkept.
14. On September 4, 2024, AM drove past the property, observed that there were no blinds, and noted that the main floor lacked furniture and the yard was unkempt.
15. AM stated that since vacating the unit, she has checked the property roughly every other month, observing that the main floor consistently had no blinds or furniture.
16. AM submitted a screenshot from a Property Owner Search indicating that the unit was vacant as of June 24, 2024, noting that the database reflects information from sources such as the CRA, but she provided no evidence on how this information is compiled.

17. AM testified that an affidavit from Vydooran Sinnathamby (VS) stated he was selling his condominium because it was too small to live in with his partner and conduct his business activities.
18. AM stated that, according to a Property Owner Search, VS's condominium remained in his name as of April 2025, indicating he had not sold it.
19. On cross-examination, AM acknowledged that she was aware the Landlord's son intended to use the main floor for business and live upstairs.
20. The Landlord's agent and son, Suregan Subramaniam (SS), testified that the N12 notice was served so that VS and his partner could move into the rental unit.
21. SS stated that prior to moving in on February 1, 2024, VS lived in Scarborough and sought a larger space to accommodate his partner and business inventory.
22. SS and VS testified that VS did not have much furniture but used the upstairs for residential purposes.
23. SS explained that VS moved out on February 1, 2025, to live with his parents due to his mother's illness and a separation from his partner.
24. SS and VS added that VS now runs his business from his parents' home, which has sufficient space for inventory storage.
25. VS testified that he moved into the rental unit on February 1, 2024, from a 1,200 sq. ft. condo in Scarborough.
26. VS stated that he required the rental unit to live with his partner and accommodate business inventory, using the basement for his business operations. He stated that the main floor of the rental unit was used for meeting with Vendors and his team and that he used the upstairs for residential occupation.
27. VS testified that he vacated the unit at the end of January 2025 due to separation and his mother's illness.
28. VS submitted his driver's license as evidence, indicating the rental unit as his address, issued on July 18, 2024.
29. VS also provided a voter card for April 2025, listing the rental unit as his residence.
30. Although utility bills remained in the Landlord's name and were partially paid by the Tenants, VS submitted Enbridge Gas and Toronto Hydro bills showing usage while he resided in the unit.
31. VS stated that he has been unable to sell his condominium, which was removed from the market on July 12, 2025, and remains vacant.

32. The Landlord presented multiple witnesses regarding N5 allegations. As these concerns are not relevant to the N12 legal test, their testimony was only considered to confirm that the N5 notices were not served to harass or retaliate against the Tenants. As there was no evidence presented to indicate the Landlord served the N5 in order to harass or retaliate against the Tenants.

Analysis

33. The Landlord submitted documentary evidence supporting VS's occupancy, including a driver's license, voter registration, and utility bills from Enbridge Gas and Toronto Hydro. Although I note that the driver's license reflected the rental unit as VS's address several months after he moved in; I find that this delay does not undermine the credibility of the other documentation or the testimony confirming genuine occupancy. The combination of documents, together with the testimony of VS, SS, and the Landlord, provides clear and credible evidence that the rental unit was genuinely required and used by a close family member and there is no evidence to the contrary.

34. In my view the Tenants' observations of vacancy after they moved out, including lack of blinds, furniture, or cars, are insufficient to establish bad faith. The evidence demonstrates that the N12 notice was served for a legitimate purpose and that the Landlord intended for the unit to be occupied by his son in accordance with the requirements of the RTA. There is no evidence that the Landlord fabricated the notice or intended the unit to remain vacant. VS also provided a reasonable explanation as to why there was no furniture on the main level of the premises.

35. The Tenants bear the burden of proving, on a balance of probabilities, that the Landlord acted in bad faith under Section 57 of the RTA. This requires the Tenants to show that the Landlord did not genuinely require the rental unit for their son or that the notice was served for an improper purpose, such as harassment or retaliation.

36. Based on the evidence, I find that the Landlord acted in good faith in serving the N12 notice. The documentary evidence, corroborated by testimony, confirms that the unit was genuinely required for VS. Allegations alone or observations of vacancy are insufficient, particularly when VS provided a reasonable explanation as to why the unit may have appeared vacant. The Tenants must provide credible evidence demonstrating that the Landlord's stated reason for the N12 notice was false or insincere, and I do not find the Tenants have met the burden of proof. Accordingly, I find that the Landlord did not act in bad faith pursuant to Section 57 of the RTA, and the application is dismissed.

It is ordered that:

1. The T5 application is dismissed.

January 6, 2026
Date Issued

Christina Philp
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.