



Order under Section 69 Residential Tenancies Act, 2006

File Number: LTB-L-071998-25

In the matter of: Basement, 599 CUMMER AVE
NORTH YORK ON M2K2M5

Between: Bohao Xu Landlord

And

La Roche Abena Tenant

Bohao Xu (the 'Landlord') applied for an order to terminate the tenancy and evict La Roche Abena (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 December 10, 2025.

The Landlord and the Tenant attended the hearing.

Determinations:

1. As explained below, the Landlord has not proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the application is dismissed.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On May 23, 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 residential occupation by the Landlord, the Landlord's spouse, the Landlord's Child, the spouse's child, the Landlord's Parents and the spouses parents.
4. The Landlord has not proven that they in good faith require possession of the rental unit for the purpose of their parents' residential occupation for a period of at least one year.
5. The rental unit is a basement unit within a single-family home.
6. While the N12 served on the Tenant indicates that the Landlord, the Landlord's spouse, the Landlord's Child, the Landlord's Parents, and the Landlord's spouses parents would be

occupying the rental unit, at the hearing the Landlord clarified that the rental unit would be occupied by his parents and his partners parents.

7. He testified that his mother is currently in China and will be coming to Canada in the middle of February. He testified that his parents and his spouses' parents are not citizens or permanent residents, and therefore shall only be able to stay for 6 months, after which point, they shall return to China for 3 or 4 months before returning. He testified that his mother is in the process of securing a visitors permit to come to Canada in February.
8. The Landlord testified that his spouse's mother will also be coming to reside in the rental unit for the other six months of the year, and she and his mother shall alternate between them the use of the rental unit as they can only each stay for 6 months at a time initially.
9. The Tenant testified that they did not believe the N12 had been served on good faith as the Landlord had previously attempted to sell the complex and had moved another Tenant's into the upper unit when they had been unsuccessful.

Analysis

10. I am not satisfied that the Landlord has proven that they in good faith require possession of the rental unit for the purpose of their parents' residential occupation for a period of at least one year.
11. I note that the Landlord indicated at the hearing that they will not be occupying the rental unit, which shall instead be occupied by his mother and his mother-in-law. Neither of whom attended the hearing to provide testimony as to their intention with respect to the rental unit. I also note that the declaration provided appears to be signed only by the Landlord himself, and not the intended occupants.

12. Section 71 of The Residential Tenancies Act, 2006 states:

72 (1) The Board shall not make an order terminating a tenancy and evicting the tenant in an application under section 69 based on,

(a) a notice of termination given under section 48 on or after the day section 13 of the *Rental Fairness Act, 2017* comes into force, unless the landlord has filed with the Board an affidavit sworn by the person who personally requires the rental unit certifying that the person in good faith requires the rental unit for his or her own personal use for a period of at least one year; or

(b) a notice of termination under section 49, unless the landlord has filed with the Board an affidavit sworn by the person who personally requires the rental unit certifying that the person in good faith requires the rental unit for his or her own personal use. 2017, c. 13, s. 13.

13. In this case the Landlord has not provided an affidavit sworn by the intended occupants. Those intended occupants also have not attended the hearing to provide testimony which could potentially remedy this defect.

14. I also note that the testimony from the Landlord was somewhat speculative with respect to the intentions of his mother and mother in law, I note that the Landlord did not provide any documentation such as a plane ticket, visitors, permit, or application for residency which would substantiate the claims that his mother and mother in law intend to occupy the property and have taken concrete steps, which would, allow them to occupy the unit within a reasonable time.
15. Additionally, I note that occasional or infrequent use of the rental unit does not constitute residential occupation. In *MacDonald v. Richard*, [2008] O.J. No. 6076 ('MacDonald') the The Divisional Court held a review decision of the Ontario Rental Housing Tribunal (ORHT), the Landlord and Tenant Board's predecessor, that "temporary full-time occupancy for four months does not constitute the purpose of residential occupation as contemplated by the Act," was correct.
16. The facts in this case are somewhat different to *MacDonald* in that the Landlord parents, and spouses' parents intend to occupy the rental unit for six months, and to alternate their occupation so that there shall always be someone residing in the rental unit.
17. While this may be sufficient to constitute residential occupation, when I consider the totality of the evidence including the lack of testimony or a declaration from the intended occupants, and the speculative nature of the Landlord's own testimony I am not satisfied that the Landlord has demonstrated that his mother and mother in law genuinely intend to occupy the rental unit for a period of one year or more and note that I have no testimony at all from the person who intend to occupy the rental unit, which may have cured these deficiencies.
18. Therefore, the Landlord's Application shall be dismissed.

It is ordered that:

1. The Landlord's Application is dismissed.

January 15, 2026
Date Issued

Reid Jackson
Member, Landlord and Tenant Board

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