



Order under Section 69 Residential Tenancies Act, 2006

Citation: Sirianni v Domingo, 2026 ONLTB 4270

Date: 2026-01-13

File Number: LTB-L-092394-25

In the matter of: APT 2, 1568 EGLINTON AVE W
YORK ON M6E2G8

Between: Valentino Sirianni Landlord

And

Teresita Domingo Tenant

Valentino Sirianni (the 'Landlord') applied for an order to terminate the tenancy and evict Teresita Domingo (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.

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on January 6, 2026.

The Landlord, the Landlord's witness, Pasquale Sirianni, the Landlord's support, Cristina Marsiglia, the Landlord's Legal Representative, Liam Walker, the Tenant and the Tenant's witness, Aleena Domingo, attended the hearing.

Preliminary Issue:

Who is the Tenant?

1. At the outset of the hearing, the Tenant raised a preliminary issue regarding the determination of the Tenant under the application, specifically whether the Tenant's daughter, Aleena Domingo, qualify as tenant under the *Residential Tenancies Act*, 2006 (the 'Act').
2. The Tenant testified that she and Ms. Domingo moved into the rental unit in 2011 and that there is no written lease between the parties. She stated that in 2011 Ms. Domingo was a high school student and the Tenant was the only tenant. She now seeks to have Ms.

Domingo added to the lease and recognized as a tenant for this application. The Tenant also acknowledged that she never asked the Landlord to add Ms. Domingo to the lease and that there has been no amendment by consent naming Ms. Domingo as a second or cotenant. The Landlord confirmed that since 2011 the Tenant has been the only tenant, that there is no written lease agreement, and that the parties did not consent to add Ms. Domingo as a second tenant. The Tenant did not make such a request.

3. Subsection 2 (1) of the RTA defines a "tenant" as:

- *"tenant" includes a person who pays rent in return for the right to occupy a rental unit and includes the tenant's heirs, assigns and personal representatives, but "tenant" does not include a person who has the right to occupy a rental unit by virtue of being,*
- *a co-owner of the residential complex in which the rental unit is located, or*
- *a shareholder of a corporation that owns the residential complex.*

4. The definition is broad and inclusive and is to be read liberally, as recognized by the Divisional Court in *Jemiola v. Firchuk*, a 2005 decision. The Court also held that a child who occupied a unit where the parent was the tenant, who wished to remain after the parent's death, and who made a single rent payment after the death, was not a tenant.

5. The facts in this case are analogous. Ms. Domingo's residence with the Tenant does not, without more, confer tenancy rights. There is no agreement with the Landlord naming her as a tenant and no amendment to the tenancy. On this record and having regard to section 2 of the Act and *Jemiola v. Firchuk*, I find that the Tenant is the sole tenant, and that Ms. Domingo is not a tenant under the tenancy.

Admissibility of Late Evidence

6. There was a dispute between the parties regarding a document the Tenant filed with the Board on January 3, 2026, that had not been served on the Landlord or the Landlord's Legal Representative. The Landlord's Legal Representative stated that he had not received this material before the hearing and had no opportunity to review it. In response, I stood the matter down for ten minutes to allow the Landlord's Legal Representative to review the Tenant's January 3, 2026, filing. We then proceeded with the merits hearing of the application.

Determinations:

7. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation in the application. However, in the circumstances I find it appropriate to postpone the eviction until April 30, 2026.
8. The Tenant was in possession of the rental unit on the date the application was filed.
9. On October 29, 2025, the Landlord gave the Tenant an N12 notice of termination with the termination date of January 11, 2026. The Landlord claims that they require vacant possession of the rental unit for the purpose of residential occupation by himself.

10. The Landlord has filed an affidavit sworn certifying that him, in good faith, requires the rental unit for his own personal use for a minimum of 1 year.
11. The Landlord also provided evidence that a bank draft in an amount equal to one month's rent was delivered to the Tenant on November 20, 2025, as required by sections 48.1 and 55.1 of the Act. The Tenant confirmed receipt of the draft but testified that it had not yet been deposited.

The Good Faith Requirement:

12. The N12 was served pursuant to Section 48(1) of the Act which states in part:

48 (1) A landlord may, by notice, terminate a tenancy if the landlord in good faith requires possession of the rental unit for the purpose of residential occupation for a period of at least one year by,

(a) the landlord.

13. In *Feeney v. Noble*, 1994 CanLII 10538 (ON SC), the Court held that the test of good faith is 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. The Landlord may also have additional motives for selecting a particular rental unit, but this does not affect the good faith of the Landlord's intentions.
14. In the more recent case of *Fava v. Harrison*, [2014] O.J No. 2678 ONSC 3352 (Ont.Div.Ct.) the Court determined that while the motives of the Landlord are, per Salter, "largely irrelevant", the Board can consider the conduct and motives of the Landlord to draw inferences as to whether the Landlord desires, in good faith to occupy the property.

Landlord's Evidence:

15. The Landlord testified that he resides at a detached home at 17 Packet Avenue where he has lived for more than twenty years. He stated that the house is too large, he plans to sell it, and his current household consists of the Landlord, his wife, and their son. He explained that he seeks to downsize because he can no longer manage the upkeep of the home. He testified that his wife has significant mobility limitations and lacks the strength to stand for extended periods. He stated that his wife is on a nursing home waiting list and that he cannot maintain the current residence on his own. He plans to move into the rental unit with his son after the Tenant vacates. He added that, in the interim, his wife may remain with him if necessary and that his son will provide daily support given the Landlord's age of 93.
16. The Landlord further testified that the rental property contains more than one unit, identified as APT 1 and APT 2. Another unit is subject to an existing fixed term lease, so he cannot obtain possession of that unit. He confirmed his intention to occupy Unit 2 for more than one year. He acknowledged that APT 2 is on an upper floor and testified that he can use the stairs without limitation.

Tenant's Evidence:

17. The Tenant disputes the Landlord's good faith and believes the Landlord intends to renovate and re-rent the unit at a higher rent once it is vacant. She stated that her unit is a two-story apartment, and that the Landlord is not able to use the stairs due to his age. She further stated that for several years the Landlord refused to repair and maintain the unit. She testified that when she raised maintenance issues, the Landlord's daughter, acting as the Landlord's agent, told her to move out rather than arrange repairs. She said that in June 2025 the daughter yelled at her when she renewed her repair request. The Tenant believes the Landlord is using the N12 notice to evict her instead of repairing the unit because her rent is below market.
18. The Tenant also stated that the tenant in APT 1 moved out in 2025 but the Landlord did not move into that vacant unit. She said the Landlord renovated APT 1 and re-rented it at a higher rent. She argued that the Landlord had another option and did not need to seek possession of her unit.

Analysis:

19. Base on the evidence before me I find, on a balance of probabilities, that the Landlord has established a genuine intention to move into the rental unit and to live there for at least one year. The Landlord therefore in good faith requires possession for a period of at least one year within the meaning of section 4(1) of the Act.
20. The Landlord's testimony was clear and credible. The Tenant did not provide concrete or objective evidence that effectively undermines the Landlord's stated intention. The claim that the Landlord cannot use stairs is unsupported. The Landlord appeared at the hearing and testified directly that he can use the stairs and that his adult son will reside with him to provide daily support. There is no persuasive evidence that the Landlord is unable to use the stairs. The Tenant also did not file documentary corroboration of her assertions that the Landlord's daughter repeatedly told her to move out when she requested repairs. In light of *Fava v. Harrison*, I have considered the Tenant's allegations about maintenance and the daughter's conduct, but on this record, there is no clear connection between those allegations and the Landlord's current good faith intention to occupy the unit.
21. With respect to the argument that the Landlord had another option, including moving into APT 1, the decisions in *Feeney* and *Salter* make clear that additional motives or alternative choices do not defeat good faith where the Landlord genuinely intends to occupy the unit. The focus is on sincere intention to reside, not on the reasonableness of the choice or the availability of other units. On this record the Landlord's intention is genuine and the statutory requirement of good faith is met.

Daily compensation, NSF charges, rent deposit:

22. Based on the monthly rent, the daily compensation is \$35.67. This amount is calculated as follows: \$1,085.00 x 12, divided by 365 days.
23. There is no last month's rent deposit.

Mandatory Refusal of Eviction

24. The Tenant submits that the Landlord is in serious breach of his obligations such that the Board must refuse eviction under s83 (3)(a) of the Act. That provision requires the Board to refuse the application if satisfied that the Landlord is in **serious breach** of responsibilities under the Act or of any material covenant in the tenancy agreement. The provision is framed in the present tense. The breach must be ongoing at the time of the hearing. The onus rests with the Tenant to establish on a balance of probabilities that the section applies.
25. The Act does not define **serious breach**. The Divisional Court in *Puterbough v. Canada Public Works and Government Services* [2005] O.J. No 5727 interpreted serious breach in the context of the maintenance duty. The Court explained that it means more than a rental premises being in poor condition or in need of significant work and that extensive repairs, by themselves, do not establish a serious breach. The purpose of section 83 (3)(a) is to ensure that landlords do not use eviction to avoid statutory obligations. At the same time, to treat any breach that raises health or safety concerns as automatically triggering the section would render the word serious meaningless. The Court held that the inquiry is contextual and focused on current, ongoing noncompliance.
26. The Tenant's allegations concern maintenance and repair. She raised concerns about hot water, the toilet, the state of the flooring and ceiling after a flood on December 25, 2025, and missing kitchen cabinet doors.

Hot Water:

27. With respect to hot water, the Tenant testified that she did not complain to the Landlord before the hearing and that service was intermittent. The Court of Appeal in *Onyskiw v. CJM Property Management Ltd.* (2016 ONCA 477 (CanLII)) (*Onyskiw*) directs a contextual approach to section 20, rather than a strict rule that any problem amounts to a breach upon first occurrence. On this record the Landlord was not aware of the alleged hot water issue and therefore could not address it. There is insufficient evidence to find a serious breach on this point.

Toilet:

28. With respect to the toilet, the Tenant testified that the tank did not refill and that she had been using a bucket. She said a plumber and the Landlord's son attended after the flood but did not fix the unit. The Landlord's son, Mr. Pasquale Sirianni, testified that on December 27, 2025, he reattached the chain to the flapper and that the toilet functioned thereafter. The Tenant also testified that she and her daughter left the unit after the flood and had only brief access since, and she could not confirm whether the toilet continued to malfunction. On this evidence the Tenant has not shown, on a balance of probabilities, that an ongoing serious breach existed at the time of the hearing.

Flood:

29. With respect to the flood, the Tenant described significant damage, including lifted living room flooring and a damaged ceiling. Mr. Sirianni testified that he attended the unit on December 26, 27, and 28, 2025 with a licensed plumber, that no ongoing or consistent leak was found, and that further work would proceed through an insurance claim. Given the timing on Christmas Day, the holiday period through Boxing Day and New Year, and the need to coordinate with an insurance adjuster, it was reasonable that repairs were not completed by the hearing date. Applying the contextual approach from *Onyskiw*, I do not find the Landlord's conduct unreasonable or that it amounts to a serious breach for the purpose of s 83(3)(a). This is not a finding that there is no problem or no breach. It is only a finding that the elevated threshold for a serious breach has not been met on this record.

Kitchen cabinet doors:

30. With respect to the kitchen cabinet doors, the Tenant testified that the doors were missing when she moved in and that she has not filed a tenant application concerning that issue. On this record that deficiency does not meet the elevated threshold for a serious breach under section 83 subsection 3.

31. For clarity, whether the Landlord has breached section 20 of the Act is not before me and I make no findings on that question. Those matters may be determined in another application where properly raised. On the evidence before me I am not satisfied that the Landlord, even if in violation of the Act, was in serious breach of obligations under the Act or of any material covenant at the time of the hearing. However, nothing in this determination prevents the Tenants from filing their own applications to seek any available remedies.

32. As a result, the Landlord's application is not refused under s. 83(3)(a).

Relief from eviction

33. 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 April 30, 2026, pursuant to subsection 83(1)(b) of the Act.

34. Although the Landlord's application is granted, I find that it would not be unfair to delay termination of tenancy to April 30, 2026, to allow the Tenant additional time to secure alternate housing.

35. The Tenant has resided in the unit for approximately 15 years and the application proceeds on a no-fault basis. She has strong community connections and seeks time to locate a suitable unit in the same area. There is no persuasive evidence that this limited postponement will cause the Landlord imminent or irreparable harm. At the same time, an extension of eight or nine months would unduly prejudice the Landlord. Postponement to April 30, 2026, strikes an appropriate balance and does not result in disproportionate or undue loss or harm to the Landlord.

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 April 30, 2026.
2. If the unit is not vacated on or before April 30, 2026, then starting May 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 May 1, 2026.
4. The Tenant shall also pay the Landlord compensation of \$35.67 per day for the use of the unit starting January 12, 2026, until the date the Tenant moves out of the unit.

January 13, 2026
Date Issued

Joy Xiao
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 November 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.