



Order under Section 69 Residential Tenancies Act, 2006

File Number: LTB-L-106929-25

In the matter of: Basement, 17 Capri Street
Thorold ON L2V4W7

Between: Mario Cutone Landlord

And

Racheal Carruthers Tenant

Mario Cutone (the 'Landlord') applied for an order to terminate the tenancy and evict Racheal Carruthers (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 January 14, 2026.

Only the Landlord attended the hearing.

As of 9:22 a.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

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 determined.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On December 2, 2025, the Landlord gave the Tenant an N12 notice of termination with the termination date of April 30, 2026. The Landlord claims that they require vacant possession of the rental unit for the purpose of residential occupation by his daughter.
4. The Landlord has fielded an affidavit sworn by his daughter, Contessa Cutone, certifying that she in good faith requires the rental unit for her own personal use for a minimum of 1 year.

The Good Faith Requirement:

5. The N12 was served pursuant to section 48(1) of the *Residential Tenancies Act, 2006* (“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,

...

(c) a child or parent of the landlord or the landlord’s spouse

6. 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.
7. 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 Landlords are, per Salter, “largely irrelevant”, the Board can consider the conduct and motives of the Landlords to draw inferences as to whether the Landlords desire, in good faith to occupy the property.

Landlord’s Evidence:

8. At the hearing, the Landlord testified that his daughter had been living with his son, who recently had a child and required the room. The Landlord wishes his daughter to live independently while remaining close to her brother and the new grandchild. He identified the rental unit as a short walk from his son’s home and stated that this proximity is important. He also stated that he owns other homes in the area but wishes to provide this unit to his daughter because it is near family. He testified that when the tenancy with the current occupant was formed, he advised that it was for one year and that his daughter might require the unit thereafter. He stated that his daughter seeks an independent living space close to family.
9. Based on the uncontested evidence before the Board, I find that the Landlord has established on a balance of probabilities that his daughter genuinely intends to move into the rental unit and live there for at least one year. Therefore, the Landlord in good faith requires possession of the rental unit for a period of at least one year.

Post-hearing submission—Compensation:

10. On January 14, 2026, at 1:15 p.m., the Board received post hearing submissions from the Landlord. The Landlord filed proof of payment in the form of an Interac e-transfer in the amount of \$1,450.00 sent to the Tenant on January 14, 2026.
11. Accordingly, I find that the Landlord complied with the requirement under section 55.1 of the Act, by tendering the required compensation prior to the termination date set out in the

notice of termination. The compensation was paid on January 14, 2026, within the required time frame.

Relief from eviction

12. 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. The Landlord testified that the Tenant has resided in the rental unit for 1 year and he is not aware of any circumstances that support granting relief from eviction. As noted, the Tenant did not attend the hearing of this matter and thus I did not have the opportunity to hear the evidence regarding the Tenant's circumstances or to dispute the Landlord's application for an eviction order.

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.

January 23, 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.