Order under Section 57
Residential Tenancies Act, 2006

File Number: LTB-T-069204-24

In the matter of: 928 GOLDEN FARMER WAY
MISSISSAUGA ON L5W1B4

Between: Richard Kovacs
Katarzyna Kovacs — Tenant

And

Faisal Mahmood — Landlord

Richard Kovacs and Katarzyna Kovacs (the 'Tenant') applied for an order determining that Faisal Mahmood (the 'Landlord') gave a notice of termination in bad faith.

This application was heard by videoconference on October 14, 2025.

The Tenants, the Tenant's Legal Representative Giuseppe Rizzuto, the Landlord, and the Landlord's Legal Representative Andrew McMaster attended the hearing.

Determinations:

1. As explained below, the Tenant did not prove the allegations contained in the application on a balance of probabilities. Therefore, the application is dismissed.

   Landlord gave N12 for own use in bad faith

2. Subsection 57(1)(a) of the *Residential Tenancies Act, 2006* (the 'Act') requires the Tenant to prove each of the following on a balance of probabilities:
   - The Landlord gave the Tenant an N12 notice of termination under section 48 of the Act;
   - The Tenant 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 Tenant vacated; and
   - The Landlord served the N12 notice of termination in bad faith.

3. The parties agreed that the lawful monthly rent was $2,100. They further agreed that the Landlord served the Tenant with an N12 Notice of Termination on April 23, 2023. The Termination date on the N12 Notice was June 30, 2023, and the Landlord required the

rental unit for his own use – by the Landlord's mother to occupy the rental unit. The parties agree that the Tenant vacated the rental unit on September 4, 2023.

Tenant's Evidence

4. The Tenant Richard Kovacs testified that the Landlord had requested an illegal rent increase since 2020. He claimed that the rental unit remained vacant from his move out date, on September 4, 2023, until the house was listed for sale in August 2024. He stated that he moved into a smaller house in Milton, but his monthly rent had increase $900.00 per month and his wife's commute to work became significantly longer.

5. The Tenant testified that the Landlord rental unit was listed for sale on August 14, 2024.

6. The Landlord's Legal Representative Mr. McMaster cross-examined the Tenants evidence. When asked about whether Mr. Kovacs was aware of the Landlord's mother being ill, the Tenant admitted he had no knowledge of the mother's specific medical condition and her found out about her death months after it occurred.

7. The Tenant's next witness was Agnes Kmice. She testified that she was the Tenant's neighbour. She stated that the rental unit was "definitely vacant" for the year. She stated that she observed no lights on and no regular occupants. She had a conversation with the Landlord in May 2024 (no specific date) and he told her that he planned to sell the house.

8. When challenged during cross-examination, Ms. Kmice admitted that the Landlord's family did stay at the property for short intervals, which I find contradicts her statement about the unit being abandoned entirely.

Landlord's Evidence

9. The Landlord Mr. Mahmood testified that he resided in Colorado and intended to move his mother from Windsor to the Mississauga unit to be closer to the extended family for cancer support.

10. The parties had a hearing on the Landlord's N12 Notice on August 21, 2023, and his mother testified about her intent to occupy the rental unit. The Member ruled in his favour and terminated the tenancy. I note that the Hearing Order provided a termination date of October 31, 2023; the Tenant vacated earlier than required.

11. The Landlord submitted receipts showing the purchase of a dining set, sofa, and mattress in November 2023, delivered to the rental unit to prepare for his mother's arrival. (Landlord's evidence pages 81-83). He intention was to have his mother move into the rental unit in December 2023.

12. He testified that in December 2023, his mother suffered an unforeseen neurological collapse. She was diagnosed in February 2024 with Paraneoplastic Cerebellar Degeneration (PCD), a rare condition that rendered her wheelchair-bound and bedridden.

13. Mr. Mahmood provided a letter from Windsor Regional Hospital confirming her illness and her passing on May 24, 2024. The Landlord testified that he listed the property for sale on

August 14, 2024, 11 months after the Tenants moved out. Lastly, he stated the property closed in December 2024.

14. The Tenant's Legal Representative Mr. Rizzuto cross-examined the Landlord on the evidence presented. When question what steps the Landlord took between September and December 2023 to move his mother. The Landlord responded that the move was scheduled for December 2023 during school holidays to allow his family to assist in moving his mother from Windsor to Mississauga.

15. When questioned about why the medical records were not transferred to Mississauga. The Landlord testified that the Specialist advised him keeping care in Windsor until she was physical stable enough to complete the move.

16. Lastly, when asked about his duty to keep the Tenant informed, the Landlord admitted he did not notify the Tenants when he realized his mother could no longer move into the unit, stating that his focus was entirely on her palliative care.

Analysis

17. Subsection 57(1)(b) of the *Residential Tenancies Act, 2006* (the 'Act') sets out a three part test that must be met. First, the Tenants must establish that the Landlord served an N12 notice of termination in bad faith under section 49 of the Act. Second, the Tenants must establish that they vacated the rental unit as a result of receiving the N12 notice. Third, the Tenants must establish the no person listed in the notice moved into the rental unit within a reasonable time after the Tenants moved out.

18. The first component of the test requires the Tenants to establish that the Landlord served the N12 Notice of Termination in bad faith under section 49 of the Act. The Tenant testified that the N12 Notice stated the Landlord's mother would be moving into the rental unit for her own residential use. The Tenant vacated the rental unit on September 4, 2023. The evidence presented shows that the property was not listed for sale until August 14, 2024—approximately 11 months after the Tenant vacated. The Tenants argue that this delay demonstrates that there was no genuine intention for the mother to move into the unit, and that the Landlord's conduct should be interpreted as part of a broader pattern of attempts to displace tenants for financial advantage. Therefore, I must consider whether the circumstances support a finding that, as of the date the N12 was served, the Landlord lacked a sincere and realistic intent to have his mother occupy the unit.

19. The burden of proof rests squarely on the Landlord to rebut the presumption of bad faith, and he must do so on a balance of probabilities. This requires the Landlord to demonstrate that, at the time the N12 Notice was served, he had a bona fide intention to have his mother occupy the rental unit for residential purposes. Evidence must go beyond mere assertions; it must consist of objective, credible indicators that an actual plan was in motion. This includes demonstrating preparation, planning, family communication, logistical arrangements, or financial steps taken. As such, I must assess whether the Landlord's actions before and shortly after serving the Notice reflect genuine intent, rather than a strategic pretext used to compel the Tenant to vacate.

20. The Burden is on the Landlord to prove, on a balance of probabilities, that they truly intended to have his mother occupy the rental unit.

21. When I examine the evidence presented by the Landlord, he provided furniture receipts from Ashley Furniture and Amazon dated in November 2023. These purchases were made months before any evidence of the mother's neurological decline emerged, which supports the Landlord's testimony that he fully intended for his mother to relocate in December 2023.

22. A "material change" in circumstance recognizes that a Landlord's good-faith intention can be disrupted by events unforeseen and outside their control. For such a change to qualify, the event must be sufficiently significant that it prevents the Landlord from reasonably carrying out the plan that formed the basis of the N12 Notice. In this case, the Landlord's plan was to relocate his mother to the Mississauga rental unit so she could receive familial support during cancer treatment. The subsequent neurological collapse in December 2023, followed by a formal PCD diagnosis in February 2024, constituted a dramatic and unforeseen escalation in her health condition. This change not only impaired her mobility but eliminated any realistic ability to move her into a multi-level semi-detached home. Therefore, the circumstances experienced by the Landlord meet the threshold of a material change that fundamentally prevented him from executing his original good-faith plan.

23. The medical documentation submitted by the Landlord, including the letter from Windsor Regional Hospital, establishes that his mother's diagnosis of Paraneoplastic Cerebellar Degeneration was distinct from her pre-existing cancer treatment and represented a severe and unpredictable deterioration. The Tenants emphasized that the Landlord knew his mother was ill when serving the N12; however, the relevant consideration is whether the mother was medically capable of relocating at that time. Nothing in the record suggests that the Landlord could have foreseen the rapid neurological decline that occurred months later. PCD is both rare and debilitating, affecting coordination, mobility, and cognitive stability. Based on this evidence, I find that the mother's condition rendered her incapable of making the intended move. A Landlord cannot be deemed to have acted in bad faith when a sincere plan becomes impossible due to a severe and unforeseeable medical event.

24. I find that the Landlord cannot be found to be in "bad faith" if the intended occupant becomes physically incapable of moving or if the move becomes medically dangerous.

25. The Tenants argues that the Landlord's history of seeking above-guideline rent increases establishes a motive for bad faith. I must weigh the pattern of conduct against the present necessity. Even if the Landlord preferred higher rent, if the actual reason for the vacancy was the mother's medical care—substantiated by hospital records—the prior rent disputes do not override the immediate family crisis. The Landlord's decision to leave the house vacant and pay the mortgage out-of-pocket for 11 months suggests his primary motive was not financial gain from the rental market.

26. During cross-examination Mr. Rizzuto questioned the Landlord about his duty to mitigate or inform the Tenant about his mother's health declining. The *'Act'* does not strictly require a landlord to invite a tenant back to the rental unit, if the personal occupation plans fail due to an act of God or health crisis, provided the original intent was honest. The Landlord testified that he was focused on his mother's palliative care and mourning her passing,

which in the circumstance I find a reasonable explanation for his lack of communication with the Tenants. I then examine the Landlord’s mother had a terminal illness, this silence and not communicating with the Tenants, in the wake of a terminal diagnosis, I find is not equivalent to a “deceitful omission.”

27. Lastly, I compare the testimony of the neighbour Ms. Kmice with the Landlord’s documentary evidence. Ms. Kmice’s observation that the house was "vacant" actually supported the Landlord's case. Had the Landlord immediately moved in a new, high-paying tenant, bad faith would be obvious. The fact that the house sat empty, and dark confirms the Landlord was not profiting from the Tenants' removal. The neighbor's testimony regarding the "For Sale" sign appearing in the summer aligns with the Landlord's timeline of deciding to sell only after the mother’s funeral and estate settlement in late May.

28. This is a timeline of the Landlord’s action:

- April 2023- N12 served (Intent: Mother's cancer support).
- August 2023-L2 Hearing (Mother testifies to her intent to move).
- Sept 4, 2023-Tenants vacate the unit.
- Nov 2023- Landlord purchases and delivers furniture to the unit.
- Dec 2023- Sudden onset of neurological symptoms in the mother.
- Feb 5, 2024- Formal diagnosis of PCD (Mother becomes immobile).
- May 24, 2024 - Death of the Landlord's mother.
- Aug 14, 2024- Property listed for sale (after mourning period and estate assessment).
- Dec 2024- Property sale closes

29. After considering the oral testimony, documentary evidence, and the chronological sequence of events, I find that the Landlord has successfully rebutted the presumption of bad faith. The evidence establishes that the Landlord made meaningful preparations for his mother’s relocation, and that these plans were derailed by an unforeseeable and catastrophic medical diagnosis. The onset of PCD rendered the intended occupant physically incapable of moving into the rental unit, and this constitutes a material change in circumstances under the Act. The mother’s rapid decline, culminating in her death in May 2024, is confirmed by medical documentation. Furthermore, the Landlord’s decision to leave the property vacant for 11 months and later sell it, rather than re-rent it for profit, is consistent with a situation shaped by personal hardship rather than deception. Given that the Landlord has demonstrated honest intent, the first element of the test under s.57(1)(b) has not been met. Accordingly, it is unnecessary to assess the second and third elements, as the Tenant’s claim must fail at the first stage of the analysis.

30. As a result, the Tenant’s application shall be dismissed.

It is ordered that:

1. The Tenant’s application is dismissed.

January 20, 2026
Date Issued

Anthony Bruno
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.