



Order under Section 69 Residential Tenancies Act, 2006

File Number: LTB-L-050153-25

In the matter of: 2, 125 ROMAINE ST
PETERBOROUGH ON K9J2C1

Between: Shane Dow Landlord

And

Greg Velchef Tenant

Shane Dow (the 'Landlord') applied for an order to terminate the tenancy and evict Greg Velchef (the 'Tenant') because:

- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has wilfully or negligently caused damage to the premises;
- 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 November 24, 2025.

The Landlord, the Landlord's Legal Representative, Crystal Francey, and the Tenant attended the hearing. Sarah Powers attended as a witness for the Landlord.

Preliminary Issues

1. At the commencement of the hearing, the Landlord sought to withdraw the N5 component of their L2 application. I granted this request and this portion of the L2 application was not heard.
2. The Tenant raised the preliminary issue that the Landlord did not properly disclose previous N12 notices of termination.
3. Section 71.1(3) of the *Residential Tenancies Act, 2006* (the 'Act') provides that a Landlord who files an application based on an N12 or N13 notice shall indicate whether the landlord has, within two years prior to filing the application, given any other N12 or N13 notice in respect of the same or a different unit and provide particulars of such notices. Subsection

71.1(4) says that the Board shall refuse to accept the application for filing if the landlord has not complied with the disclosure requirement.

4. The Tenant submitted that the Landlord did not disclose in their initial application that a previous N12 notice was served on the Tenant with a termination date of January 31, 2024.
5. The Landlord's Legal Representative submitted that the failure to disclose this previous N12 was as a result of a clerical error and her misunderstanding that the N12 at issue fell within the two-year rule.
6. The Tenant submitted that, as the Landlord did not properly disclose this N12 notice and did not seek amendment of their L2 application, the Landlord's application ought to be dismissed pursuant to section 71.1 of the Act.
7. A similar issue was addressed in *Miller Estate v. Arguelles*, 2025 ONSC 112 ("*Miller Estate*"), in which the Divisional Court dismissed the tenant's appeal of an LTB order terminating the tenancy on basis of an N12 notice for residential occupation by the landlord's child on the ground that the landlord's application did not include several N12 notices.
8. The Court explained the purpose of section 71.1(3) of the Act as follows:

[31] The provisions in question attempt to balance the good faith rights of a landlord to take occupation of a residential unit with the rights a tenant to be free from wrongful eviction.

[32] The required disclosure ensures tenants have at least some of the information necessary to legitimately question the landlord's good faith use of the s. 48 notice. That information may allow for further investigation by the tenant that reveals the landlord has not acted in good faith on earlier occasions. It may allow the Board to infer that a landlord is not acting in good faith in the application before it.

9. The Court held that the consequence of a landlord failing to comply with the N12/N13 disclosure requirement in s. 71.1(3) is not to render the notice void, or to prohibit the landlord from bringing its application, or to dismiss the application. It is to refuse the filing of the application where there is an error on its face.
10. The Court held that once the application is accepted for filing, there is nothing that prohibits the LTB from amending the L2 to include additional notice information where there is no prejudice to the tenant. Rule 15.4 anticipates amendments to applications provided the amendment is appropriate, would not prejudice any party, and is consistent with a fair and expeditious proceeding.
11. In *Miller Estate*, the landlord provided additional disclosure after the application was filed and it was accepted by the Board. As the tenant was the very person who had been served with the undisclosed N12 (and therefore must have known of it), she was not prejudiced by its omission from the L2 application.
12. In the current case, the Tenant has raised the issue of an N12 notice of termination not being properly disclosed on the L2 application. It is undisputed that the undisclosed N12

notice was served on the Tenant, and I find that the Tenant was not prejudiced in their ability to investigate patterns in the Landlord's use of N12 or N13 notices. The Tenant was also not prejudiced in their ability to argue that any pattern undermined the good faith of the Landlord's service of the within N12 Notice. Following the guidance provided by the Court in *Miller Estate*, I find that I have the authority to amend the application to include the prior N12 notice and it would not be unfair to do so in the circumstances.

13. Accordingly, the Landlord's application is amended to include the undisclosed N12 Notice. The Tenant's request for dismissal is denied.

Determinations

14. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the tenancy shall be terminated as detailed below.
15. The Tenant was in possession of the rental unit on the date the application was filed.

N12 Notice of Termination

16. On April 25, 2025, the Landlord gave the Tenant an N12 notice of termination with the termination date of June 30, 2025. The Landlord claims that they require vacant possession of the rental unit for the purpose of residential occupation by their spouse and child.
17. The N12 notice was served under s. 48(1)(b) and (c) of the Act which states:

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,

(b) the landlord's spouse

(c) a child or parent of the landlord or the landlord's spouse
18. The main issue to be determined on this application is whether the Landlord has satisfied the "good faith" requirement in s. 48(1) of the Act. The jurisprudence holds that the onus is on the Landlord to establish that the individual(s) identified on the notice genuinely intend to move into the rental unit after the Tenant vacates and live there for at least one year.
19. The Courts have provided much guidance to the Board in interpreting the "good faith" and "genuine intent" requirement in the context of a landlord seeking possession of a rental unit for the purpose of residential occupation by the landlord.
20. The Courts have stated that the test of good faith is genuine intention to occupy the residential unit and not the reasonableness of the landlord's proposal (*Feeney v. Noble* (1994), 19, O.R. (3d) Div.Ct) ("Feeney").
21. As confirmed in subsequent decisions, this legal test remains unchanged, and the "good faith" requirement simply means a genuine intention to occupy the premises and not the

reasonableness of the landlord's proposal (*Salter v. Beljinac* 2001 CanLII 30231 (ONSC DC) ("Salter").

22. Thus, the Landlord must establish that the individual identified on the N12 notice genuinely intends to move into the unit. The Court also found in *Salter* that the Landlord's motives are "largely irrelevant".
23. As per s. 72(1) of the Act, the Landlord filed a declaration with the Board from his spouse indicating that she and the Landlord's child intend to occupy the rental property for a period of at least one year for the purposes of their own residential occupation.
24. The Landlord's spouse testified that:
 - a) She is the spouse of the Landlord;
 - b) They have had a breakdown in their marital relationship and she and their child moved out of the matrimonial home and in with her parents;
 - c) Her parents are elderly and her cohabitation with her parents is causing mental strain;
 - d) The rental unit is a one bedroom apartment, with no laundry facilities; and
 - e) The residential complex is composed of 3 units and this unit is well-situated for her child to have access to the backyard.

25. The Tenant testified that:

- a) The rental unit is 600 square feet in size with 1 bedroom;
- b) He has been living in the rental unit for 13 years;
- c) The rental unit is in need of some work; and
- d) He believes that the Landlord wants to evict him in order to renovate the unit and re-rent it for more money.

Analysis

26. I am satisfied, based on the evidence before me, that on a balance of probabilities 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 for his spouse and child.
27. The Landlord's spouse clearly explained her current circumstances and the requirement for a new living arrangement. She acknowledged the size and amenities of the rental unit and clearly identified that they were sufficient to her needs.
28. The Tenant's evidence and submissions did not provide evidence to the contrary or contradict the Landlord's evidence. While the Tenant offered his suspicions about the Landlord's good faith intent, they remain, in my view, mere suspicions.

Compensation

29. The Landlord has compensated the Tenant an amount equal to one month's rent by July 1, 2025.
30. The Tenant was required to pay the Landlord \$4,570.23 in daily compensation for use and occupation of the rental unit for the period from July 1, 2025 to November 24, 2025.
31. Based on the monthly rent, the daily compensation is \$31.09. This amount is calculated as follows: $\$945.56 \times 12$, divided by 365 days.
32. The Landlord collected a rent deposit of \$800.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$197.90 is owing to the Tenant for the period from May 1, 2012 to November 24, 2025.
33. The amount of the rent deposit and interest on the rent deposit is applied to the amount the Tenant is required to pay.

Relief from eviction

34. 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 March 31, 2026 pursuant to subsection 83(1)(b) of the Act.
35. The Landlord submitted that they wished to move into the rental unit as soon as possible.
36. The Tenant testified that he has lived in the unit for 13 years. His employment, as a water/sewer contractor, is seasonal and he anticipates being on EI until works recommences in April/May 2026.
37. I have considered both parties' circumstances, including the 13-year tenancy of the Tenant and the living situation of the Landlord's spouse and child. While the Landlord's spouse and child's living situation may not be optimal, they do have a place to live; thus, I find it would not be unfair to postpone the eviction to March 31, 2026 so the Tenant can have additional time to find alternative housing.

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 March 31, 2026.
2. If the unit is not vacated on or before March 31, 2026, then starting April 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 April 1, 2026.
4. The Tenant shall pay to the Landlord \$4,570.23, which represents compensation for the use of the unit from July 1, 2025 to November 24, 2025. Any payments made by the Tenant since July 1, 2025 shall be credited to this amount owing.

5. The Tenant shall also pay the Landlord compensation of \$31.09 per day for the use of the unit starting November 25, 2025 until the date the Tenant moves out of the unit.
6. The Landlord owes \$997.90 which is the amount of the rent deposit and interest on the rent deposit, and this is deducted from the amount owing by the Tenant.
7. If the Tenant does not pay the Landlord the full amount owing on or before March 31, 2026, the Tenant will start to owe interest. This will be simple interest calculated from April 1, 2026 at 4.00% annually on the balance outstanding.

January 20, 2026
Date Issued

Curtis Smith
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 October 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.