



Order under Section 57 Residential Tenancies Act, 2006

File Number: LTB-T-046904-24

In the matter of: 504, 109 FRONT ST E
TORONTO ON M5A4P7

Between: Kristen Maluish Tenant

And

Silke Rudelbach Landlord

Kristen Maluish (the 'Tenant') applied for an order determining that Silke Rudelbach (the 'Landlord') gave a notice of termination in bad faith.

This application was heard by videoconference on July 2, 2025.

The Landlord's Legal Representative, Tim O'Brien, the Landlord, the Landlord's witness, Patrick Burke, the Tenant's Agent, Brian Maluish, and the Tenant attended the hearing.

Agreed Facts:

1. The Tenant vacated the rental unit on November 30, 2023.
2. Compensation of one month's rent in the amount of \$2,562.50 was paid by waiver of November 2023 rent, and there was no last month's rent deposit being held by the Landlord at the time the Tenant vacated.
3. The Tenant purchased a semi-detached home and took possession on November 24, 2023.
4. The person referred to in the N12 notice of termination (N12 notice) did not move into the rental unit and occupy it for a period of at least one year.
5. The rental unit was re-rented in April 2024 for the monthly rent of \$3,050.00.

Determinations:

6. 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.
7. It is undisputed that the Landlord's son did not move into the rental unit and that the unit was re-rented within the one-year period following service of the N12 notice. The law is clear that bad faith must be assessed based on the Landlord's intention at the time the notice was given. Under subsection 57(5) of the Act, the burden shifts to the Landlord to establish, on a balance of probabilities, that the N12 notice was not served in bad faith.
 8. The tenancy between the Landlord and the Tenant began in September 2017.
 9. The rental unit is a one-bedroom plus den condominium located in a residential building, measuring approximately 750 to 760 square feet.
 10. The Landlord owns multiple properties and has held ownership of the subject rental unit for approximately 25 years.
 11. It was not disputed that during the tenancy, the rent was increased five times. Although some increases exceeded the guideline, the Landlord testified that each increase was discussed and mutually agreed upon with the Tenant.
 12. The Landlord testified that when the Tenant moved into the rental unit, she mentioned that she was looking to buy in the near future and the Landlord advised her at that time that the Landlord's son would be moving into the rental unit eventually.
 13. The Landlord has not given the Tenant any previous N12 notices of termination and stated that she had a great relationship with the Tenant, who also stated the relationship was great.
 14. The Landlord testified regarding a letter dated September 26, 2023, in which she informed the Tenant that, due to ongoing financial difficulties and following prior discussions, she intended to sell the condominium where her son was residing. The letter advised that, as a result, her son would be moving into the Tenant's rental unit, and that an N12 notice would be forthcoming. The Landlord also encouraged the Tenant to consider purchasing a property and offered to refer her to a real estate agent.
 15. The Landlord stated that at that time the N12 notice was served she was receiving very little income and had a credit line of \$800,000.00 and paid \$10,000.00 interest.
 16. The N12 notice was dated September 30, 2023 with a termination date of February 29, 2024, providing five months notice.
 17. Although the Landlord owns multiple properties, she testified to having an emotional attachment to the rental unit and owns another condominium within the same residential complex, which she plans to occupy upon retirement.
 18. The Landlord undertook renovations of the rental unit from December 2023 through January 2024, including new countertops, flooring, and painting throughout. She testified that her son was actively involved in the renovations, including selecting paint colors, and frequently visited the unit.

19. The Landlord's son, Patrick Burke (PB), began moving belongings into the rental unit in January 2024 and made arrangements for transferring television and internet services, hiring movers, and booking the elevator for his planned move in February 2024. Documentary evidence, including a shipping invoice for office supplies sent to the rental unit, was submitted to support these arrangements.
20. PB testified that following discussions with a contractor who visited his condominium on February 2, 2024, he reconsidered and decided against moving into the rental unit. He expressed that the unit was a downgrade—being smaller and darker—and, despite feeling obligated to accommodate his mother's wishes, ultimately chose not to proceed.
21. The Landlord testified that after her son changed his mind about moving in, she contacted her real estate contacts to put the rental unit back on the market for rent, as she did not wish to sell it. Instead, she sold a different property she owned. The Landlord further stated that the unit her son was residing in originally was not put up for sale as she intended on renovating that unit also.
22. The Tenants did not dispute their awareness of the Landlord's financial difficulties, her intention to sell her son's current condominium, and his planned move into the rental unit.
23. The Tenant purchased a house 2 weeks after being given the N12 notice.
24. Based on the evidence, I am not convinced that the Landlord acted in bad faith. I find that the Landlord held a genuine and good-faith belief that her son would be moving into the rental unit. Subsequent changes in circumstance, even if they result in the unit not being used as intended, do not establish bad faith.
25. In my view, the decision to re-rent the property was not an attempt to evict the Tenant under false pretenses but rather a necessary response to the Landlord's son changing his mind. I accept the unchallenged testimony of the Landlord that she never intended to sell the rental unit and held an emotional attachment to it. It is reasonable that, due to worsening financial circumstances, she was compelled to sell another property she owned. At the time the N12 notice was served, I find that the Landlord genuinely intended to sell the condominium where her son resided. The Tenant was aware of these intentions and did not dispute them or provide evidence suggesting bad faith. Furthermore, given that the Tenant had previously agreed to rent increases above the guideline with the Landlord, it is inconsistent to suggest the Landlord sought to evict the Tenant simply to obtain higher rent. I also accept that the unit was only re-rented after the original plan for the son to move in unexpectedly failed and the Tenant had already purchased a home. The Landlord's actions, therefore, were motivated by necessity rather than opportunism, reflecting a reasonable and honest course of conduct under challenging personal and financial conditions.
26. As such, I find that the notice was not served in bad faith, and that the Tenant did not prove the bad faith requirement pursuant to 57(1)(a) of the Act. Therefore, the application must be dismissed.

It is ordered that:

1. The application is dismissed.

January 27, 2026

Date Issued

15 Grosvenor Street, Ground Floor
Toronto ON M7A 2G6

Christina Philp

Member, Landlord and Tenant Board

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