



Order under Section 69 Residential Tenancies Act, 2006

Citation: AUGUST v ANTHONY, 2026 ONLTB 9082

Date: 2026-01-29

File Number: LTB-L-078027-25

In the matter of: Lower Unit, 184 MAGNOLIA AVE
SCARBOROUGH ON M1K3K8

Between: PHILIP AUGUST Landlord

And

CATHERINE ANTHONY Tenant

PHILIP AUGUST (the 'Landlord') applied for an order to terminate the tenancy and evict CATHERINE ANTHONY (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.

The Landlord, the Landlord's Legal Representative Ashirnie David, and the Tenant attended the hearing.

Preliminary issue:

Late Evidence submission:

1. At the outset of the hearing, the Landlord's legal representative submitted that the Tenant served her disclosure package only two days before the hearing and that there was insufficient time to review it. The Tenant explained that she is self-represented and unfamiliar with Board procedure, and that she filed the materials two days prior. I stood the matter down to allow the Landlord's representative an opportunity to review the Tenant's disclosure with the Landlord. We then proceeded with the hearing on the merits.

The Lawful Rent:

2. The Tenant raised a preliminary issue regarding the lawful rent. She stated that the rent was increased from \$850.00 to \$865.00 in 2021 following a text exchange, and that the Landlord paid compensation of only \$850.00 after serving an N12 notice, which would not

equal one month of rent if the lawful rent were \$865.00. To support her position, she submitted several months of bank statements showing payments of \$865.00. She could not produce the text message confirming the alleged increase.

3. The Landlord acknowledged receipt of some \$865.00 payments but stated that those sums represented catch up payments and that the regular monthly rent remained \$850.00. The Landlord testified that the Tenant paid \$850.00 in May, June, July, and August 2025, and submitted a letter sent to the Tenant in April 2025 confirming that the monthly rent is \$850.00.
4. The only documented and undisputed pattern in the recent period is payment of \$850.00 for four consecutive months in 2025. There is no reliable documentary proof that a lawful rent increase to \$865.00 was served with the required notice. Weighing the Landlord's testimony and the April 2025 letter against the Tenant's uncorroborated evidence, I am satisfied on a balance of probabilities that the lawful monthly rent is \$850.00.

Determinations:

5. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. However, in the circumstances I find it appropriate to postpone the eviction until April 30, 2026.
6. The Tenant was in possession of the rental unit on the date the application was filed.
7. On August 28, 2025, the Landlord gave the Tenant an N12 notice of termination with the termination date of October 31, 2025. The Landlord claims that they require vacant possession of the rental unit for the purpose of residential occupation by himself.
8. The Landlord filed a sworn affidavit certifying that he in good faith requires the unit for his personal use for a minimum of one year.
9. By October 30, 2025, the Landlord paid the Tenant compensation of \$850.00, equal to one month of rent.

The Good Faith Requirement:

10. 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) a landlord

11. 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.

12. 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:

13. The Landlord testified that the property is a bungalow with two self contained levels. The Tenant resides in the lower level with her two children. The upper-level floor became vacant in January 2025 and has remained vacant. The Landlord currently rents a studio apartment in downtown Toronto on a month-to-month tenancy. He stated that he intends to move into the rental property and to use the entire house, both the upper and lower levels, for his own residential occupation. He plans to reside there with his five-year-old son, who would need access to the entire house. He stated that he can take possession and move in within about 60 days, which aligns with the notice he must give to his current landlord. He intends to live in the property on a long-term basis and does not plan to re-rent or sell.
14. The Landlord further testified that his original plan had been to complete repairs to the upper-level floor and the lower-level unit while continuing to rent. His finances changed when the upper-level floor tenant vacated in January 2025. He can no longer afford to carry both his current rental and this property. He decided to move into the property so that he would not have to continue paying rent for the studio apartment.

Tenant's Evidence:

15. The Tenant disputes the Landlord's intention to reside in the property. She believes the Landlord intends to renovate and re-rent both levels, including her unit, for higher rent. She stated that the upper-level floor has been vacant since January 2025 and that the Landlord could have moved into that space at any time, which in her view makes it unnecessary to require her unit.

Analysis:

16. Based on the evidence before the Board, I find that the Landlord has established on a balance of probabilities that he genuinely intends to move into the 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.
17. The Landlord's testimony was clear and credible. The Tenant did not provide concrete or objective evidence to show that the notice was given in bad faith. She admitted that her view rests on assumptions and past statements, and she did not produce documentation to prove that the Landlord does not intend to reside in the property. The Tenant argued that the Landlord could move into the vacant main floor and that it is not reasonable to require her unit. As per the decisions of *Feeney* and *Salter*, 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 notice. The court determined that the Board should focus on

whether the landlord has a genuine intention to move into the rental unit, and not on whether the landlord's intention is reasonable or whether the landlord has other options.

Relief from eviction

18. 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.
19. Although the application is granted, a short delay is appropriate to allow the Tenant time to secure alternate housing. The Tenant has lived in the unit for approximately 15 years with two children, ages 16 and 9, who are full time students with established ties to nearby schools, friends, and extended family. She was laid off about five months ago and now receives Employment Insurance in the amount of a little over \$1,800.00 per month. She has been searching for housing since receiving the notice but has not found a suitable unit due to high rents and no pets restrictions. There was no evidence of significant prejudice to the Landlord that would result from a brief postponement. In these circumstances, delaying enforcement of the eviction until April 30, 2026, is appropriate.

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 29, 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.