



Order under Section 57 Residential Tenancies Act, 2006

Citation: McNabb v Cheema, 2026 ONLTB 9724

Date: 2026-02-05

File Number: LTB-T-060468-25

In the matter of: 121 Waters way
Arthur ON N0G1A0

Between: Sierra McNabb Tenant

And

Arjun Cheema Landlord

Sierra McNabb (the 'Tenant') applied for an order determining that Arjun Cheema (the 'Landlord') gave a notice of termination in bad faith.

This application was heard by videoconference on December 11, 2025.

The Landlord, the Landlord's representative Bruce Parsons, the Tenant, and the Tenant's representative Janet van Oordt attended the hearing.

Determinations:

1. As explained below, the Tenant proved the Landlord served a notice of termination under section 48 of the Act 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.

N12 Notice

3. It is undisputed the Landlord (LL) did not serve a formal N12 Notice of Termination on the Tenant (TT). The Tenant moved into the rental unit in February 2024. The Tenant's

position is they moved out of the rental unit in response to the Landlord's repeated intentions of residing in the rental unit at the end of the lease term.

4. In the fall of 2024, the Tenant and the Landlord engaged in conversations regarding their intentions with the rental unit after February 2025:
 - September 20, 2024:
 - TT: "... I also wanted to just ask you your opinion on extending our lease come February, as it is slowly approaching, I wanted to check sooner rather than later. I know you mentioned moving in eventually, so just wanted to reach out to inquire about your plans for the house, we really enjoy living here and if given the opportunity we would love to stay another year."
 - LL: "... I wanted to let you know that I do plan on moving back in when the lease ends in February. I appreciate your understanding and I'll make sure to keep you updated as we approach that time."
 - September 22, 2024:
 - TT: "... If we find a place early would you be okay with ending the lease early or would you prefer the full year?"
 - LL: "... I'm pretty flexible with you guys moving before just give me a 2 week heads up."
 - October 26, 2024:
 - TT: "... We have found a place to move into November 15th, if possible are we able to keep the rental unit until December 17th..."
 - LL: "... Yes, that works with us."
 - November 3, 2024:
 - TT: "... would you be willing to reimburse us last months rent if we were able to move out by November 17th?"
 - LL: "... I myself won't be moving in until after the new year, so it would be best for me if you guys can please keep it until the 30th. That way it would be vacant for less time."

Analysis

5. Section 212 of the *Residential Tenancies Act, 2006* (the 'Act') says that "substantial compliance with this Act respecting the contents of forms, notices or documents is sufficient". Although the Landlord did not serve an N12 notice, section 202(1) of the Act permits the Board to ascertain the real substance of any transaction and in doing so:
 - (a) may disregard the outward form of a transaction or the separate corporate existence of participants; and
 - (b) may have regard to the pattern of activities relating to the residential complex or the rental unit.
6. I find the conversations between the parties, including entering the lease with the understanding that the Landlord would be occupying the rental unit after the fixed term expired, the Landlord reiterating this intention in the September 20, 2024 text and the November 3, 2024 text, constitute a notice to terminate under section 48 of the Act because the Landlord gave notice of his intention to occupy the rental unit and gave an

approximate date of when they would need to vacate. This conversation encompassed the details required to complete a formal N12 Notice.

7. I find the Tenant actively began their search for a new apartment after the communication with the Landlord on September 20, 2024 and vacated the rental unit in response to the Landlord's intention to occupy the rental unit.
8. Based on my findings above, I find the first two elements of the test in paragraph 2 are satisfied.
9. It is undisputed that the parties agreed to terminate the lease on November 30, 2024. It is further undisputed the Landlord listed the rental unit for rent on November 22, 2024. The Landlord testified the rental unit was later rented out to a new tenant in February 2025.

Bad Faith Allegation

10. On an application to the Board, the person who alleges a particular event occurred has the burden of proof to establish that it is more likely than not that their version of events is true. In this application, the burden typically falls on the tenant to establish that the notice of termination was served in bad faith.
11. However, the fact that the rental unit was listed for rent 6 days prior to the termination of the lease, creates a rebuttable presumption that the Landlord served the N12 notice in bad faith. In other words, in this case, the burden falls on the Landlord to establish that they did not serve the notice of termination in bad faith.

Rebuttable Presumption of Bad Faith

12. Subsection 57(5)(a) and 57(6) of the Act establishes a rebuttable presumption of bad faith on the following ground:
 - (5) For the purposes of an application under clause (1) (a), it is presumed, unless the contrary is proven on a balance of probabilities, that a landlord gave a notice of termination under section 48 in bad faith, if at any time during the period described in subsection (6) the landlord,
 - (a) advertises the rental unit for rent;
 - (b) enters into a tenancy agreement in respect of the rental unit with someone other than the former tenant;
 - ...
 - (6) The period referred to in subsection (5) is the period that,
 - (a) begins on the day the landlord gives the notice of termination under section 48; and
 - (b) ends one year after the former tenant vacates the rental unit.
13. Based on the undisputed evidence that the Landlord listed the rental unit for rent 6 days prior to the Tenant's lease expiring, and that the unit was re-rented 2 months after the Tenant vacated, I find that the presumption of bad faith under subsection 57(5) of the Act

is engaged and the Landlord is required to prove their good faith on a balance of probabilities.

Landlord's Evidence

14. The Landlord testified his intention was always to occupy the rental unit as of February 2025. When the unit was originally listed for rent in November 2024 the intention of the Landlord was to rent the rental unit short term until February 2025. The Landlord was unsuccessful in renting the unit on a short term basis.
15. The Landlord testified there was a material change in circumstances in January 2025 when the Landlord was offered a job in Brampton, which is where he resided while the Tenant occupied the rental unit. The Landlord testified because of this new job opportunity, he decided to stay in Brampton. The Landlord provided an e-mail chain corroborating this job offer and his acceptance. At the same time, he was approached by a realtor colleague who had a client interested in renting the rental unit. This conversation prompted the Landlord re-renting the rental unit in February 2025.
16. Based on the Landlord's testimony and documents provided, I do not find that the Landlord has lead evidence sufficient to rebut the presumption of bad faith.
17. For these reasons, the Tenant's application is granted.

Remedies

18. The Tenant is entitled to remedies as a result of the Landlord's breach of the Act. The Tenant requested a rent differential and general compensation.
19. The Tenant provided a copy of the lease for the apartment they moved into after vacating the rental unit showing the rent at \$2,848.00 per month. The Tenant testified the apartment is comparable in size to the rental unit. The rent the Tenant was paying at the rental unit was \$2,475.00 per month.
20. I find the increase in rent is reasonable. As such, the Landlord will be ordered to pay the Tenant \$4,476.00 for the increased rent that the Tenant has incurred or will incur for a one-year period after the Tenant moved out of the rental unit.
21. The Tenant sought \$30,204.00 for general compensation. The Tenant testified they estimated \$504.00 for lost wages and the further amount sought was due to the stress caused by needing to move apartments, clean the unit before vacating, enlisting friends to help with their move, and renting a trailer. The Tenant did not provide any receipts to establish the total amount the move cost them. However, I find based on the sum of the Tenant's submissions, I find a lump sum amount of \$750.00 for general compensation to be reasonable.
22. I have considered all of the evidence presented at the hearing and all of the oral testimony and although I may not have referred to each piece of evidence individually or referenced all of the testimony, I have considered it when making my determinations.

23. This order contains all of the reasons for my decision within it. No further reasons shall be issued.

It is ordered that:

1. The total amount the Landlord shall pay the Tenant is \$5,274.00. This amount represents:
 - \$4,476.00 for increased rent the Tenant has incurred for the one-year period from November 15, 2024 to November 14, 2025.
 - \$30,204.00 for general compensation.
 - \$48.00 for the cost of filing the application.
2. The Landlord shall pay the Tenant the full amount owing by February 16, 2026.
3. If the Landlord does not pay the Tenant the full amount owing by February 16, 2026, the Landlord will owe interest. This will be simple interest calculated from February 17, 2026 at 4.00% annually on the balance outstanding.
4. The Tenant has the right, at any time, to collect the full amount owing or any balance outstanding under this order.

February 5, 2026
Date Issued

Elena Jacob
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.