



Order under Section 57 Residential Tenancies Act, 2006

Citation: Perry v Kamau, 2025 ONLTB 93643

Date: 2026-02-05

File Number: LTB-T-010537-24

In the matter of: 415 Rossland Road West
Oshawa ON L1J3G9

Between: Krista-Lee Perry Tenant

And

Joyce Kamau Landlord

Krista-Lee Perry (the 'Tenant') applied for an order determining that Joyce Kamau (the 'Landlord') gave a notice of termination in bad faith.

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

The Landlord, the Landlord's representative, Maria Rayson, the Tenant and the Tenant's witnesses, Carol (basement unit, 415 Rossland Road West) and Tyler Keats (the Tenant's son), attended the hearing.

Determinations:

Preliminary Issue

Tenant witnesses

1. Initially, the Tenant indicated that she would be the only one testifying on her behalf. Prior to the conclusion of her testimony, she requested an opportunity to have the basement tenant at the rental property, Carol Richardson, call into the hearing to testify. She also requested that her son, Tyler Keats, be allowed to testify, stating that both witnesses had evidence that new tenants moved into the rental unit after the Tenant vacated the unit.
2. The Landlord's representative opposed the Tenant's request to present witnesses, stating that she had had ample time to arrange their attendance.
3. Given that the Tenant's evidence had not been concluded and the Landlord's representative did not identify any prejudice to the Landlord by having witnesses called by the Tenant, I exercised my discretion to stand the matter down to allow the Tenant's witness, Carol Richardson, to call into the hearing.

Tenant witness - Tyler Keats ('TK')

4. TK confirmed that he in the same room as the Tenant (his mother) and had heard not only her testimony, but also the testimony of the Tenant's witness, Carol Richardson. As such, the Landlord's representative opposed TK being allowed to testify.
5. While I allowed TK to testify, I give TK's evidence little to no weight in my determination of the issue at hand. His testimony can, however, be given weight under section 83 of the Act.

The Application

6. As explained below, the Tenant proved the allegations contained in the application on a balance of probabilities. Therefore, the Landlord must pay the Tenant \$5,943.89.
7. The rental unit is located on the main floor of detached home. The basement is a separate rental unit occupied by another tenant.

The Law

8. Subsection 57(1)(a) of the *Residential Tenancies Act, 2006* (the 'Act') requires the Tenants to prove each of the following on a balance of probabilities:
 - The Landlord gave the Tenants an N12 notice of termination under section 48 of the Act;
 - The Tenants 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 Tenants vacated; and
 - The Landlord served the N12 notice of termination in bad faith.
9. It is undisputed that the Landlord gave the Tenants an N12 notice of termination on July 1, 2023 stating that the Landlord required the rental unit for residential occupation by them. The termination date in the notice was August 31, 2023.
10. It is also undisputed that the Tenant moved out of the unit on September 16, 2023 based on the N12 notice.
11. It is also undisputed that the Landlord she did not move into the unit after the Tenant vacated.
12. Therefore, the remaining issue I must decide is whether the Landlord gave the N12 notice in bad faith.
13. The Tenant alleges that the Landlord gave the notice in bad faith because the Landlord did not move into the rental unit as claimed.

Landlord's testimony

14. The Landlord does not deny that she did not move into the rental unit.
15. She stated that she purchased a property in Pickering in 2019. After she moved in, she realized that the house was falling apart and essentially uninhabitable. She decided that her

best option was to demolish the house and build a new one. She stated that once all of the architect drawings had been prepared, she submitted her application to the city for a building permit in December 2022 and was advised that she should receive her permit sometime in the spring or summer of 2023. Knowing that she would need a place to live once work on her current property started, the Landlord served the Tenant with an N12 notice to vacate the unit on August 31, 2023.

16. The Landlord stated that before she could move into the unit after the Tenant vacated, she arranged for repairs and painting of the unit. While she was waiting for that work to be completed, the city advised her that they could not issue the building permit because of zoning issues. As a result, the Landlord had to amend her application to requesting rezoning before the building permit could be issued. In other words, her building permit was delayed indefinitely.
17. Knowing that she could not rent out her own home in its current state of disrepair (i.e. the home she intended to demolish), she decided to rent out the unit instead. She said this was because she had mortgages on both properties and needed rental income from at least one property in order to pay the mortgages.
18. The Landlord confirmed that her rezoning application was approved mid-September 2025, after which she received the building permit.
19. The Landlord confirmed that after the Tenant vacated, she rented the unit for approximately \$2,200.00 per month.

Analysis

20. I find that the N12 notice was served in bad faith for the following reasons. The Landlord did not dispute that she did not move into the rental unit or that she rented the unit to new tenants in December 2023. She stated that she had mortgages on both properties (i.e. the one she lived in and the rental unit) and she needed rental income from at least one of those properties in order to pay the mortgages. She stated that since it was not possible to rent out her own home because of disrepair, she had to re-rent the unit instead.
21. I do not find the Landlord's explanation credible. I say this because when she made the decision to move into the rental unit, she had no intention of renting out her own property; the intention was to demolish it. Since she planned to move into the rental unit, she knew that she would no longer be receiving rental income. This leads me to conclude that the Landlord was already financially able to pay both mortgages without rental income.
22. Furthermore, the Landlord's evidence regarding when she was advised that she had to apply for rezoning of the property was inconsistent. Initially she stated it was September or October 2023. She later said that it was in November 2023. However, the letter dated May 29, 2023 [Doc 3782583, pages 52-53] confirms that the Tenant had made aware at that time that she would have to apply for rezoning. The email read, in part,

Thank you for your inquiry with the Ministry of Municipal affairs and Housing (MMAH). Based on the information provided, I understand that you are inquiry about Minister's Zoning Order (MZO) development standards and requirements on a property located at 2440 Sixth Concession Road in the City of Pickering. I

understand that you are interested in demolishing an existing 1-storey dwelling on the subject lands and construction a new 2 storey dwelling with a basement apartment unit.

Based on the information provided the property appears to be within the MZO which was enacted by the province to protect future Pickering airport lands...A non-agricultural dwelling is not permitted with this MZO.

For uses that do not comply with MZO requirements, there is an application process to amend the MZO to permit alternative uses and development standards. The process involves the submission of an application to the Ministry which is circulated to relevant agencies for comment and public notice of the application is provided.

It's important to note, there is no guarantee of approval of an application to amend the Minister's Zoning Order. The final decision rests with the Minister.

Please note that the MZO process is administered by the province but all other planning applications and building permit approvals are administered locally by the City of Pickering.

23. That email confirms that the Landlord knew about the rezoning process as early as May 29, 2023 which was prior to serving the N12 notice. As such I do not find it credible that the Landlord only became aware that she had to apply for rezoning after the Tenant moved out.
24. Lastly, I find it suspicious that after repairing and painting the rental unit, the Landlord rented the unit for almost \$700.00 more per month than the Tenant had been paying.
25. I am satisfied that the Landlord served the N12 notice in bad faith as a means to end the tenancy, then rented it to new tenants for increase rent.
26. As such, I find that the Tenant proved all of the requirements in subsection 57(1)(a) and is entitled to a remedy.

Remedies

27. It is undisputed that the Tenant had been paying \$1,509.10 for the rental unit and had to pay \$2,000.00 for her new rental property. The Tenant requested the difference in rent between her old rental unit and her new rental unit for one year from the date she moved out, being \$5,890.89 (i.e. $\$2,000 - \$1,509.10 = \$490.90 \times 12 \text{ months}$).
28. I find that the Landlord must pay the Tenant \$5,890.89 for the increased rent that the Tenant has incurred for a one-year period after the Tenant moved out of the rental unit.

It is ordered that:

1. The total amount the Landlord shall pay the Tenant is \$5,943.89. This amount represents:
 - \$5,890.89 for increased rent the Tenant has incurred for the one-year period from September 15, 2023 to September 14, 2024
 - \$53.00 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 December 16, 2025 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

Karen Gonçalves

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.