



Order under Section 57 Residential Tenancies Act, 2006

File Number: LTB-T-029161-25

In the matter of: 3509, 33 Charles Street East
Toronto ON M4Y0A2

Between: Manisha Valicha Tenant

And

ELENA KLEVTSOV Landlord

Manisha Valicha (the 'Tenant') applied for an order determining that ELENA KLEVTSOV (the 'Landlord') gave a notice of termination in bad faith.

This application was heard by videoconference on November 12, 2025.

The Tenant, the Tenant's legal representative, Mohsen S. Azimi, the Landlord, and the Landlord's daughter and support person, Stephanie Klevtsov, attended the hearing. The Tenant's witnesses, Mekh Joshi (MJ), and Joanna Iaboni (JI), also gave evidence at the hearing.

Determinations:

1. At the onset of the hearing the Landlord requested an adjournment in order to provide additional evidence because they asserted that they only received the Notice of Hearing on October 10, 2025. However, after taking submissions from both sides regarding the request and upon considering costs for the adjournment request, the Landlord ultimately rescinded their adjournment request, and the hearing proceeded.
2. The Tenant also agreed to accept the late evidence filed in the portal by the Landlord even though they were not served copies of the materials in advance of the hearing. However, the Landlord's submissions that were uploaded on the hearing date were unsolicited submissions and therefore they are not considered as part of this order.
3. The Tenant objected at the onset of the hearing regarding the Landlord's daughter giving evidence based on their status confirmed at the hearing that they were just there supporting the Landlord and would not be giving any of their own testimony. Accordingly, where reference is made to the Landlord's evidence in this order it is based on the direct evidence of the Landlord and not that of their daughter.

4. The application is also amended to include the Tenant's amended application that was filed on October 21, 2025 and served on the Landlord on the same date which added further remedies to consider.
5. As explained below, the Tenant did not prove the allegations contained in the application on a balance of probabilities. Therefore, the application is dismissed.
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 or as a result of an application to or order made by the Board based on the notice;
 - 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. There is no dispute that the Landlord gave the Tenant an N12 notice of termination. The termination date in the notice was June 30, 2023. In addition, the N12 notice and the good faith intention of the Landlord to occupy the rental unit by themselves and their daughter was challenged at a hearing on February 12, 2024 based on the order that was issued on March 7, 2024 which granted the Landlord's application for termination of the tenancy on this basis. That order required that the Tenant vacate the rental unit by April 30, 2024.
8. I accept that the Tenant vacated the rental unit on or about April 15, 2024 and returned the keys to the Landlord by April 30, 2024. Accordingly, the Tenant has met both the first and second parts of the test.
9. However, based on the evidence presented at the hearing, and on a balance of probabilities I am unable to accept that the Landlord or their daughter failed to occupy the rental unit within a reasonable time after the Tenant vacated the unit. Therefore, the third part of the test must fail. I say this for the following reasons:

Tenant's evidence

10. Joanna Iaboni (JI), the Tenant's first witness is a Rental Housing Enforcement Unit Coordinator with the Ministry of Housing. She testified that she made several attempts to serve the Landlord at the rental unit address relating to service of a summons to appear to face potential charges of retaining the key deposit. She attempted to serve the Landlord at the rental unit address with a first attempt on December 19, 2024 in person. She was told by the concierge at that time that there was another tenant living in the unit and not the Landlord. Several attempts were made thereafter to serve the Landlord without success at the rental unit.
11. Mekh Joshi (MJ), the Tenant's second witness testified that he has been a concierge at the property since some time after June of 2024. He made reference to notes in the managements online system that keeps track of who is living in the property, which includes historical notes of occupancy to the unit. While he had no direct knowledge

regarding the comings and goings from the unit prior to his employment, he had access to the system notes.

12. MJ testified that the system showed that the Tenant was moved out of the system on April 30, 2024 and that a new tenant was registered in the system on November 6, 2024 with a new lease. The system also showed that on November 12, 2024 at 9:11am the new tenant was supposed to move in. He had no direct knowledge of the move in and was relying on the system notes. He also had no direct knowledge regarding any occupancy of the unit prior to his employment and could not confirm the system information was accurate prior to his employment. He offered no evidence with respect to any fob access and could not give evidence on whether or not the Landlord did in fact occupy the rental unit or not between April 30, 2024 to November 12, 2024 or whether they used the fob during that time.
13. The Tenant testified that they were advised by JI that they were not able to serve the Landlord as they were not accepting mail at the rental unit address. This led her to believe that the Landlord did not move into the rental unit, and accordingly, she filed her application on this basis.. She also submits that it would not be practical for the Landlord to occupy the unit with her daughter because the total floor space is approximately 500 square feet and that it would be uncomfortable to have two people living there because the Landlord's suggested needs for care. She submits further that at the hearing the Landlord had testified that the reason she required the unit was because she was unwell.

Landlord's evidence

14. The Landlord testified that she and her daughter did in fact move into the unit. They went there on April 20, 2024 and could not get access to the unit so they contacted a locksmith to change the locks. Shortly thereafter, her daughter began moving things into the unit because the Landlord was unwell. The Landlord submits that she was living at her boyfriend's home and her daughter was also living with their boyfriend in Vaughan prior to moving in together. The reason they were moving in together was so that her daughter could help care for her and help her with personal care as she was too embarrassed to have her boyfriend care for her and her daughter had no issue with it.
15. In support of this, the Landlord submits that their daughter changed her driver's licence to the rental unit by June of 2024 and she put the hydro into her own name at the rental unit address in April of 2024. She also submits that she had parking at the residential complex and had to register with the building for her parking with her disability permit.
16. On or about July 28, 2024 her daughter got into a bad motor vehicle accident when she was out shopping in Vaughan. This diminished her ability to provide care to her mother as she was in need of car for herself.
17. The Landlord further submits that her own mother back in Moscow suffered a stroke in late October of 2024 which required that she spend time in Moscow to care for her. On this basis and based on her daughters inability to provide further care and her lack of affordable options, she had an agent list the rental unit online to find another tenant. While in Moscow, her mother suffered another stroke in July of 2025 which resulted in her moving to Moscow permanently to care for her. As of the time of the hearing, both the Landlord and her daughter were residing in Moscow.

Analysis

18. The evidence of JI was not overly helpful to establish that the Landlord failed to occupy the rental unit within a reasonable time as the first time they attended the property to served documents was on December 19, 2024 which was after the Landlord admitted to have re-rented the unit on November 12, 2024.
19. The evidence of MJ was also not determinative regarding the Landlord occupying the rental unit within a reasonable amount of time after the Tenant vacated the unit as they could not provide any details about fob access to the unit and could not confirm occupancy of the unit between April 30, 2024 and November 12, 2024.
20. The standard of proof in proceedings before this Board is “proof on a balance of probabilities.” By that standard, the party bearing the burden of proof must show with evidence that, “more likely than not”, their assertions are true. Where, the evidence of the opposing party is as believable as that of the party bearing the burden of proof, that burden cannot be said to have been discharged.
21. Based on the evidence before me, and on a balance of probabilities I do find that the Landlord occupied the rental unit within a reasonable amount of time after the Tenant vacated the rental unit.
22. While the Tenant has not established the test under subsection 57(1)(a) of the Act, in my view, I must consider the presumption of bad faith under subsection 57(5) of the Act on the basis that the Landlord entered into a tenancy agreement in respect of the rental unit with someone other than the former tenant within the one year period after the Tenant vacated the unit.
23. Subsection 57(5) of the Act is a rebuttable presumption. The burden, therefore, shifts on the Landlord to prove the contrary, more specifically, that the N12 notice was served in good faith and not in bad faith.
24. There is no dispute that the Landlord entered into a tenancy agreement in respect of the rental unit. They did so on or about November 6, 2024 with a commencement date for move-in on November 12, 2024.
25. The Landlord has provided a reasonable explanation for the change in their circumstances after the notice was served. I accept that the Landlord’s reasons for serving the N12 notice were in good faith and that they had a genuine intention to occupy the rental unit for the following reasons:
26. The Landlord did move into the rental unit. Their daughter helped them move in and I accept that they both lived in the unit until late October of 2024 when the Landlord felt obliged to return to Moscow to care for her mother after her stroke. I also accept that due to her daughter’s motor vehicle accident and her inability to provide further ongoing care for her, that she moved out of the rental unit because of this. I also accept that the Landlord was having financial difficulty maintaining the rental unit with the bills while facing the challenges of having to care for her own mother in Moscow. I further accept that this was difficult based on the Landlord’s own illnesses.

27. The Tenant provided no reliable evidence to contradict the Landlord's testimony as I've stated above.
28. On this basis, I am unable to find that the Landlord served the N12 notice in bad faith, even after considering the presumption.
29. Since the burden is on the Tenant to prove, on a balance of probabilities that the Landlord served notice in bad faith, and they have not, the application must be dismissed.

It is ordered that:

1. The Tenant's application is dismissed.

February 9, 2026
Date Issued

Terri van Huisstede
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.