



Order under Section 57 Residential Tenancies Act, 2006

Citation: MCCONNELL v BARTH, 2026 ONLTB 7600

Date: 2026-02-03

File Number: LTB-T-000841-23

In the matter of: B, 38 SHIRK PL
KITCHENER ON N2K1R4

Between: MARGO MCCONNELL Tenant

And

BRODIE BARTH Landlord
EMILY SCHUURMANS

MARGO MCCONNELL (the 'Tenant') applied for an order determining that BRODIE BARTH and EMILY SCHUURMANS (the 'Landlord') gave a notice of termination in bad faith.

This application was heard by videoconference on August 26, 2025.

The Landlord, BB, and the Tenant attended the hearing. The Tenant was represented by Cynthia Iheanacho.

Also in attendance was the Tenant's witness, Allison Crompton.

I directed the parties to provide written submissions by August 26, 2025 and as of the date of this order, I confirm their receipt and have considered them in this order.

Determinations:

1. As explained below, the Tenant did not prove the allegations contained in the application on a balance of probabilities. Therefore, the application is dismissed.
2. By way of background, this tenancy began on August 1, 2016, and ended on September 26, 2021 when the Tenant moved out of the rental unit. The lawful monthly rent was \$600.00.
3. On April 21, 2023, the Tenant filed a request to amend their application increasing their moving expenses to \$935.84 from \$580.00. As the Landlord was aware of the amendment and prepared to respond, the request to amend the application was granted.

Landlord gave N12 for own use in bad faith

4. On an application such as this, governed by subsection 57(1)(a) of the *Residential Tenancies Act, 2006* (the 'Act'), it 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.
5. It is uncontested that the Tenant received a N12 notice of termination in July 2021 with a termination date of September 30, 2021 that stated the Landlord required the rental unit for his own use and that his father would be moving into the property. It is also uncontested that the Tenant vacated the rental unit as a result of this notice.
6. The main point of contention between the parties was whether the Landlord's father moved into the rental unit within a reasonable period of time and continued to occupy the premises for the 12 months they committed to. I find that he did.
7. The Tenant asserts he did not based on the information she received from her neighbour, AC, who testified at the hearing about how she was a relief postal worker and covered that route when needed until mid-July 2022 and spoke to FB, the Landlord's father, who talked about moving out of the unit soon as he didn't want to strain his son's relationship with his wife. She also testified that in April 2022, she saw FB's car at a different property which was on her way to work and assumed he moved there, however, she continued to deliver mail to FB at the property.
8. The Landlord provided an affidavit from his father who confirmed that in 2021 he would have become homeless had it not been for his son preparing unit A for his occupation; but since unit A was not insulated properly he could not live another winter in the unit so the N12 was served to the Tenant to vacate the premises. FB confirmed in this affidavit that since his income was limited and he was not able to pay his son the rent, he would help his son as much as he could.
9. The Landlord also presented a letter from the late former tenant, MO, in unit C confirming that the Landlord's father moved into the rental unit after the Tenant vacated and stayed there until the end of 2022. While the Tenant raises questions regarding MO's capacity, and asserts she has spoken with MO's daughter who confirms she could not have signed the letter, the Landlord presented a letter from MO's daughter to counter this assertion.
10. The Tenant also suggests the Landlord's father resided in the unit on a temporary and part-time basis and that her unit was used for storage. The Tenant seeks that I rely on *Kohen v. Warner*, 2018 ONSC 3865 which speaks to this issue. The problem with this assertion is that the evidence before me does not indicate so. The Tenant's own witness confirms that it was seven months after the Tenant moved out that she suspected the Landlord's father had moved residences. Further the Landlord provided photographs of the rental unit where his father resided during the one-year period and confirmed that his father had to move out in October 2022.

11. The Tenant also submits the N12 was served after the Landlord admitted in a news video dated February 5, 2021 that they would be gutting the property to redevelop it. While that may be the case, the N12 was served five months after this video and the application for the building permit was initiated in May 2022. Moreover, this does not counter the Landlord's assertion that their father required the rental unit for his own personal use nor my finding that the Landlord's father resided there for the required period of time (12 months).
12. Therefore, I find the Tenant did not prove all the requirements they had to under subsection 57(1) of the Act and the Tenant's application is dismissed.

It is ordered that:

1. The Tenant's application is dismissed.

February 3, 2026
Date Issued

Sonia Anwar-Ali
Member, Landlord and Tenant Board

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