



Order under Section 57 Residential Tenancies Act, 2006

Citation: khalilian v Devera, 2026 ONLTB 11966

Date: 2026-02-06

File Number: LTB-T-074290-24

In the matter of: 725, 36 FOREST MANOR RD
NORTH YORK ON M2J0H3

Between:	Mohammadhassan khalilian	Tenant
	And	
	Adnrew Devera Evelyn Devera	Landlord

Mohammadhassan khalilian (the 'Tenant') applied for an order determining that Adnrew Devera and Evelyn Devera (the 'Landlord') gave a notice of termination in bad faith.

This application was heard by videoconference on December 9, 2025.

The Landlord Adnrew Devera, Landlord's Legal Representative Paul Balram, Tenant Mohammadhassan khalilian, and the Tenant's Legal Representative Alireza Hesami attended the hearing.

When the capitalized word "Landlord" is used in this order, it refers to all persons or companies identified as a Landlord at the top of the order.

Determinations:

1. As explained below, the Tenant proved the allegations contained in the application on a balance of probabilities. As a result, the Tenant is entitled to remedies under section 57 of the Residential Tenancies Act, 2006 (the "Act").
2. Subsection 57(1)(b) 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 49 of the Act;
 - The Tenant vacated the rental unit as a result of the N12 notice of termination;
 - No person referred to in subsection 49(1) or 49(2) 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.

3. In *Elkins v. Van Wissen*, 2023 ONCA 789, the Court of Appeal for Ontario held that when deciding a T5 application relating to an N12 served for purchaser's own use under section 49 of the Act, the LTB must consider both the landlord's and the purchaser's good faith. After making both those determinations, the LTB must then consider what orders to make in respect of the landlord and the purchaser.

The Facts

4. The parties agreed on the following facts:
 - The Landlords served the Tenant with an N12 Notice of Termination on April 10, 2024, with a termination date of June 18, 2024.
 - The stated reason for termination was purchaser's own use under section 49 of the Act.
 - The Tenant vacated the rental unit on June 7, 2024.
 - The Tenant vacated because of the N12.
 - The lawful monthly rent at the time was \$2,100.00.
5. The Tenant testified that after vacating, they later learned that the agreement of purchase and sale did not close and that the property remained titled in the Landlords' names. This evidence was not disputed.
6. The Landlord Andrew Devera (AD) testified that an agreement of purchase and sale existed and that the purchaser intended to move into the unit. He further testified that the agreement was mutually terminated on May 30, 2024, before the Tenant vacated.
7. I find as a fact that the Landlord knew on or before May 30, 2024 that the purchaser would not be moving into the rental unit.
8. Despite this knowledge, the Landlord did not inform the Tenant that the sale had failed, did not withdraw the N12, and did not offer the Tenant the opportunity to remain in the rental unit.
9. The Tenant vacated on June 7, 2024, unaware that the basis for the N12 no longer existed.
10. No purchaser, family member, or other qualifying person ever occupied the rental unit after the Tenant vacated.

Analysis

11. The issuance of an N12 for purchaser's own use creates a rebuttable presumption of bad faith where the intended occupant does not move in within a reasonable time.
12. The Landlords argued that the failure of the sale constituted a change in circumstances outside their control.

13. I do not accept that submission. While a failed sale can, in some cases, rebut bad faith, the evidence here shows that the Landlord became aware of the failed sale before the Tenant vacated and before the termination date.
14. At that point, the Landlord had an obligation to act honestly and in good faith. Reasonable options available to them included advising the Tenant that the N12 was no longer valid or permitting the Tenant to remain in the unit.
15. The Landlord chose to do neither and instead allowed the Tenant to vacate under false premises.
16. I find that permitting the Tenant to vacate while knowingly withholding material information that the N12 was no longer valid constitutes bad faith within the meaning of section 57 of the Act.
17. The Tenant's evidence was consistent, supported by documentary evidence, and largely undisputed. By contrast, the Landlord's evidence confirmed the critical facts establishing bad faith.
18. Accordingly, I find that the Tenant has satisfied all elements of subsection 57(1)(b) of the Act.

Remedies

19. I find that the Landlord's conduct was not a passive error or an unforeseen change in circumstances. The evidence establishes that the Landlord became aware on May 30, 2024 that the agreement of purchase and sale had been cancelled and that the purchaser would not be occupying the rental unit, yet the Landlord did not withdraw the N12 notice, did not advise the Tenant that the basis for the notice no longer existed, and did not provide the Tenant with any opportunity to remain in the rental unit before the termination date. Instead, the Landlord allowed the Tenant to vacate the rental unit on June 7, 2024, in reliance on a notice that the Landlord knew was no longer valid.
20. In my view, the Landlord's omission was deliberate and material. The Tenant's evidence establishes a clear causal connection between the N12 notice and the losses claimed. The Tenant would not have vacated the rental unit but for the N12, did vacate as a direct result of it, and immediately incurred higher rent and moving costs as a consequence. In these circumstances, I find it reasonable and proportionate to award remedies at the higher end of the range contemplated by the Act in order to fully compensate the Tenant for the losses flowing from the Landlord's breach.

Abatement of Rent

21. The Tenant seeks a rent abatement equal to six months of rent. Six months at the lawful rent of \$2,100.00 totals \$12,600.00. Given the seriousness of the Landlords' conduct, the direct causal link between the bad-faith notice and the Tenant's displacement, and the absence of any mitigating steps by the Landlords, I find this amount reasonable and proportionate.
22. I therefore order the Landlord to pay the Tenant \$12,600.00 as compensation for bad-faith termination.

Difference in Rent

23. The Tenant provided undisputed evidence that their new rental unit costs \$2,670.00 per month, an increase of \$570.00 per month over their prior rent.
24. I find this amount reasonable and directly attributable to the Landlords' bad-faith conduct. The increase in rent of \$570.00 per month for 12 months totals \$6,840.00. I therefore order the Landlord to pay the Tenant \$6,840.00 as compensation for the Tenant's increase in rent.

Costs and Expenses

25. The Tenant testified that they incurred \$350.00 in moving-related expenses, including truck rental, fuel, and supplies. Although receipts were not produced, the Landlords did not credibly challenge the reasonableness of this amount. I accept the Tenant's testimony and award \$350.00.
26. The Tenant is entitled to reimbursement of the \$48.00 application filing fee.

It is ordered that:

1. The total amount the Landlord shall pay the Tenant is \$19,838.00. This amount represents:
 - \$12,600.00 for a rent abatement.
 - \$6,840.00 for increased rent the Tenant has incurred for the one-year period from June 2024 to May 2025.
 - \$350.00 for the reasonable moving, storage and other like expenses that the Tenant has incurred as a result of having to move out of the rental unit.
 - \$48.00 for the cost of filing the application.
2. The Landlord shall pay the Tenant the full amount owing by February 17, 2026.
3. If the Landlord does not pay the Tenant the full amount owing by February 17, 2026, the Landlord will owe interest. This will be simple interest calculated from February 18, 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 6, 2026
Date Issued

Kyle Anderson
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.