



Order under Section 69 Residential Tenancies Act, 2006

File Number: LTB-L-084389-25

In the matter of: 1, 1294 LOTUS ST
Gloucester ON K1J8A8

Between: Mike Hamilton Landlord

And

Tara Robertson Tenant

Mike Hamilton (the 'Landlord') applied for an order to terminate the tenancy and evict Tara Robertson (the 'Tenant') because:

- the Landlord in good faith requires possession of the rental unit for the purpose of residential occupation for at least one year.

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on January 14, 2026.

The Landlord's Legal Representative, Daniel Moak, the Landlord, the Tenant's Legal Representative, Tiffany Chenard and the Tenant attended the hearing.

Determinations:

Preliminary Issues:

1. At the commencement of the hearing, the Tenant's Legal Representative ('TTR') raised the preliminary issue, that the application does not properly reflect all the N12 notices that have been provided by the Landlord.
2. The TTR took the position that the Landlord has provided multiple N12 notices to the Tenant and did not disclose them in the application, as required by section 71.1(3) of the *Residential Tenancies Act, 2006* (the 'Act').
3. The Landlord's Legal Representative ('LLR') took the position that there was no prejudice to the Tenant to amend the application to include the previous N12s as the Tenant was aware of the notices as they were given to her.

4. The Landlord provided testimony that 3 N12s have been served on the Tenant, and that the property manager made mistakes with the first 2 N12 notices, and that he is unsure as to why the property manager lost the money order. This is the 3rd N12 notice that was given to the Tenant due to property manager's errors, but the reason for giving the N12s has remained consistent.
5. In *Miller Estate v. Arguelles*, 2025 ONSC 112, the Court considered the implications of a landlord's failure to disclose a previous N12 Notice in an eviction application for personal use. The Court held that failure to comply with s. 71.1(3), "is ont to render the notice void, or to to prohibit the landlord from bringing its application or to dismiss the application. It is to refuse the filing of the application."

The Court found that if non-compliance is apparent on its face, the LTB can simply refuse the application. However, once the application is accepted for filing, there is nothing that prohibits the application being amended to include the missing notice information

6. The Court explained that:

Section 71.1(3) of the Act provides that a landlord who files an application based on a notice of termination given under s. 48 shall indicate whether or not the landlord has, within two years prior to filing the application, given any other notice under section 48, 49 or 50 in respect of the same or a different unit and provide particulars of such notices. Subsection (4) says that the Board shall refuse to accept the application for filing if the landlord has not complied with subsection (3)." Once the application is accepted for filing, there is nothing that prohibits amendment to include additional notice information. Indeed, Rule 15.4 of the Landlord and Tenant Board Specific Rules anticipates amendments to applications provided the amendment is appropriate, would not prejudice any party, and is consistent with a fair and expeditious proceeding.

7. I find that there is not prejudice to the Tenant to amend the application to reflect that the Landlord provided the Tenant with two previous N12 notices, as the Tenant was aware of the notices given. The Tenant was in a position to address the previous notices and to challenge the Landlord's good faith in the present application based on those notices. I proceeded to hear the merits of the application.

The Application

8. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation in the application. Therefore, the Tenancy is terminated.
9. The Tenant was in possession of the rental unit on the date the application was filed.
10. On October 3, 2025, the Landlord gave the Tenant an N12 notice of termination with the termination date of December 31, 2025. The Landlord claims that they require vacant possession of the rental unit for the purpose of residential occupation for their own use.

11. The Landlord in good faith requires possession of the rental unit for the purpose of their own residential occupation for a period of at least one year.
12. The Landlord has compensated the Tenant an amount equal to one month's rent by December 31, 2025.
13. The Landlord testified that he is currently residing with his girlfriend in Quebec which is about 1.5 hours away from Ottawa. The Landlord has medical issues, and he needs to reside in Ontario to ensure he does not lose his health benefits. The Landlord currently drives 1.5 hours to get to his medical appointments several times a month, and he would like to live closer to his various doctors who are located in Ottawa.
14. In addition, the Landlord testified that he needs his own place to live as he has been hospitalized for anxiety and his girlfriend who he resides with would like more space from him.
15. The Landlord testified that he intends to live in the unit for years.
16. On cross-examination, the TTR questioned the Landlord about his intention to reside in the upper unit rather than the lower unit that was promised to the Tenant.
17. The Landlord testified that he did offer the Tenant the lower unit for an additional \$500.00 per month, and that the Tenant changed her mind and did not want to move into the basement unit, so the Landlord rented it out to someone else.
18. The Tenant testified that she wanted to pay an extra \$500.00 a month due to her son's ongoing health problems to rent the basement unit. The Landlord wanted her to sign a N11 agreement to terminate the tenancy, which she declined as she wanted to move into the basement unit. The Tenant provided further testimony that the Landlord does not need to move into the rental unit as he goes to Florida in the winter and resides in Quebec.
19. The Tenant testified that she does not have family in the city and has been residing at the rental unit for 8 years. This is the only home her son knows, and the people in the neighbourhood know how to manage her son with his medical conditions and needs. Her son is comfortable in the neighbourhood, and she does not want to move and she cannot find another place to reside in the neighbourhood.
20. The Tenant argued that she believes the N12 notice was not given in good faith. She raised the issues of the Landlord not allowing her to move into the basement unit, her not wanting to sign the N11 to vacate, and she argued that she believes that the Landlord intends to rerent the unit for substantially higher rent if she moves out.
21. It is not disputed that the basement unit was vacate for some time, and that the Landlord has rented out the basement unit to a new Tenant.

The Law/Analysis:

22. The issue to be determined by the Board is whether the Landlords have satisfied the "good faith" requirement pursuant to section 48(1) of the Act which states:

48(1) A landlord may, by notice, terminate a tenancy if the landlord in good faith requires possession of the rental unit for the purpose of residential occupation for a period of at least one year by,

- (a) a landlord;
- (b) the landlord's spouse;
- (c) a child or parent of the landlord or the landlord's spouse; or
- (d) a person who provides or will provide care services to the landlord, the landlord's spouse, or a child or parent of the landlord or the landlord's spouse, if the person receiving the care services resides or will reside in the building, related group of buildings, mobile Home Park or land lease community in which the rental unit is located.

23. The onus is on the Landlord to establish that they, in good faith, require the rental unit for the purpose of residential occupation and that they genuinely intend to move into the rental unit.

24. The courts have provided much guidance to the Board in interpreting the "good faith" and "genuine intent" requirement in the context of a landlord seeking possession of a rental unit for the purpose of residential occupation by the landlord.

25. In *Feeny v. Noble*, 1994 CanLII 10538 (ON SC), 19 O.R. (3d) 762, the Ontario Divisional Court considered this issue in the context of subsection 103(1) under the Landlord and Tenant Act, R.S.O. 1990, c. L.7, and held that:

"...the test of good faith is a genuine intention to occupy the premises and not the reasonableness of the landlord's proposal".

26. In *Salter v. Beljinac*, 2001 CanLII 40231 (ON SCDC) the Divisional Court stated at paras 18, 26-27:

In my view, s.51(1) [now RTA s.48(1)] charges the finder of fact with the task of determining whether the landlord's professed intent to want to reclaim the unit for a family member is genuine, that is, the notice to terminate the tenancy is made in good faith. The alternative finding of fact would be that the landlord does not have a genuine intent to reclaim the unit for the purpose of residential occupation by a family member.

While it is relevant to the good faith of the landlord's stated intention to determine the likelihood that the intended family member will move into the unit, the Tribunal stops short of entering into an analysis of the landlord's various options.

Once the landlord is acting in good faith, then necessarily from the landlord's subjective perspective the landlord requires the unit for the purpose of

residential occupation by a family member. That is sufficient to meet the s.51(1) standard. The fact that the landlord might choose the particular unit to occupy for economic reasons does not result in failing to meet the s.51(1) standard.

27. While the Tenant expressed their suspicion that the Landlord plans to rerent the unit at a higher monthly rent amount, which is genuinely held by her, it remains however, a mere suspicion. The Tenant's evidence did not provide a concrete, objective basis to challenge the Landlord's intention in the circumstances.
28. On the other hand, the Landlord's evidence was clear and consistent that they intend to move into the rental unit to be closer to their medical appointments and to live separate from their girlfriend.
29. Based on the evidence and submissions before me, I am satisfied that the Landlord, in good faith, intends to move into the rental unit for a period of at least one year. In this case, the Landlord testified as to what his intentions are with respect to occupation of the rental unit, why he requires to reside in the rental unit, and I have no reason to doubt the truthfulness of the Landlord's good faith intentions.

Daily Compensation and LMR:

30. The Tenant was required to pay the Landlord \$636.86 in daily compensation for use and occupation of the rental unit for the period from January 1, 2026 to January 14, 2026.
31. Based on the monthly rent, the daily compensation is \$45.49. This amount is calculated as follows: \$1,383.75 x 12, divided by 365 days.
32. The Landlord collected a rent deposit of \$1,100.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$173.93 is owing to the Tenant for the period from June 1, 2017 to January 14, 2026.
33. The amount of the rent deposit and interest on the rent deposit is applied to the amount the Tenant is required to pay.

Relief from eviction:

34. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would not be unfair to postpone the eviction until April 30, 2026 pursuant to subsection 83(1)(b) of the Act.
35. In considering the parties' circumstances, including the length of the tenancy, and the parties' needs, I find it would not be unfair to postpone the eviction.
36. Due to the sensitive nature of the Tenant's son's physical and mental health conditions, I do not find it necessary to include extensive details about his health in this order to respect his privacy. I have considered all the documentation evidence that the Tenant has provided to support her son's conditions and the effect that moving would have on him. While I can appreciate that it would be detrimental to move, I also recognize that the Landlord has his own health issues and that he requires the unit to be closer to his regular medical appointments.

37. The Landlord submitted that they were prepared to give the Tenant three months to move.

38. I believe I have balanced the Landlord's needs with the effect on the Tenant and her son. It is anticipated this additional period will provide the Tenant with time to make arrangements to vacate the unit and locate alternative housing.

39. This order contains all of the reasons within it and no further reasons will be issued.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before April 30, 2026.
2. If the unit is not vacated on or before April 30, 2026, then starting May 1, 2026, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord on or after May 1, 2026.
4. The Tenant shall pay to the Landlord \$636.86, which represents compensation for the use of the unit from January 1, 2026 to January 14, 2026. The Landlord shall deduct from this amount any rent payments that have been made during this period.
5. The Tenant shall also pay the Landlord compensation of \$45.49 per day for the use of the unit starting January 15, 2026 until the date the Tenant moves out of the unit.
6. The Landlord owes \$1,273.93 which is the amount of the rent deposit and interest on the rent deposit, and this is deducted from the amount owing by the Tenant.
7. As of the date of the hearing, the amount of the rent deposit and interest the Landlord owes on the rent deposit exceeds the amount the Landlord is entitled to by \$637.07.
8. However, the Landlord is authorized to deduct from amount owing to the Tenant \$45.49 per day for compensation for the use of the unit starting January 15, 2026 to the date the Tenant moves out of the unit.
9. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.

February 20, 2026
Date Issued

Samantha Greaves
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.

In accordance with section 81 of the Act, the part of this order relating to the eviction of the Tenant expires on November 1, 2026 if the order has not been filed on or before this date with the Court Enforcement Office (Sheriff) that has territorial jurisdiction where the rental unit is located.