

Determinations:

1. On April 7, 2025, the Landlords gave the Tenant an N12 notice of termination, which was deemed served on April 9, 2025, with the termination date of June 30, 2025. The Landlords claim that they require vacant possession of the rental unit for the purpose of residential occupation by herself and her husband for a period of at least one year. It is their intention to sell their home in Osgoode, ON, and move to Vankleek Hill, ON before their mortgage is up for renewal in May 2026.
2. The Tenant was compensated in the amount of \$490.00 on April 29, 2025 by money order.
3. The Tenant was still in possession of the rental unit on the date of the hearing.

The Good Faith Test

4. Section 48(1) requires me to determine whether the Landlords have a genuine intention to occupy the rental unit for a period of at least 12 months. An N12 Notice is said to be given in good faith where the Landlords have a genuine intention to occupy a rental unit for at least 12 months.
5. A leading case in a landlord's own use application is *Salter v. Beljinac*, [2001] O.J. No 2792 (Div.Ct). This decision considered the predecessor legislation to the *Residential Tenancies Act, 2006*, (hereinafter, 'RTA') the *Tenant Protection Act, 1997* (TPA). Sections 51(1) of the TPA and section 48(1) of the RTA are the same for all material purposes. In dismissing the appeal, the Divisional Court wrote, "...the test of good faith is a genuine intention to occupy the premises and not the reasonableness of the landlord's proposal..." If the person in the notice genuinely intends to reside in the unit, the Notice is given in good faith.
6. I do not find that the Landlords' N12 application has been served in good faith. There are inconsistencies in their testimony that make it difficult to substantiate their genuine intention to occupy the rental unit for a period of at least one year. Furthermore, their relationship with the Tenant is acrimonious enough to question their motivations for filing this application.
7. As explained below, the Landlord has not proven their genuine intention on a balance of probabilities. Therefore, the application is dismissed.

Timing

8. When questioned about the timing of the N12, the Landlord testified that she and her husband were due to renew their mortgage on their current residence in Osgoode in May 2026 and wanted to relocate to Vankleek Hill where they would be closer to family. The Landlord did not call any witnesses to testify to her familial claims in the region. She filed declarations on the portal and referred to them during her testimony, but these are hearsay statements as the declarants were not present for cross-examination. Furthermore, there appeared to be no declarations filed from family members in the Vankleek Hill area. The declarations that were filed were from Metcalfe, Ottawa, Osgoode, and Manotick.

Accordingly, the Board gives these declarations very little weight to their ability to support the Landlords' genuine intention to occupy.

Apartment size

9. The Landlords desire the Tenant's unit because they think it is larger than her current apartment in Osgoode. However, in their testimony, Ms. Iles admitted to making factual errors about the actual size of the apartment, having indicated it was 1440 sq ft in comparison to her 440 square ft unit in Osgoode. Through the Tenant's cross-examination, it appears she is approximately 590 sq ft, about 150 sq ft larger than the Landlords' current residence. As the Tenant pointed out, although the Landlord is in possession of the architectural drawings of the building, she did not seem to have an accurate understanding of the size of the apartment, which leads the Board to doubt her genuine intention to occupy it.

Other Properties

10. The Landlords are sophisticated property owners who own several properties. During her testimony she referred to other buildings they own and "flip". When asked about moving into one of the other four units in the Vankleek Hill building, she was evasive and said that she did not want to live beside the other tenants because they were "noisy". When asked about another property she recently acquired, a church, she indicated that it was not yet fit for human habitation. The Board finds that the Landlord did not adequately express why this unit, and not another one of the properties they own, would be suitable for them to move into.
11. While good faith intention to move into the rental unit is the test and *not* whether there are alternatives or whether the choice of the Landlord is the best or fair, the landlord's motives and the reasonableness of proposing the move into the subject unit (and the availability of other alternatives) are relevant as circumstantial evidence from which inferences can be drawn when deciding whether a genuine or sincere intention to occupy the unit exists [Fava v. Harrison; Clarke v. Bielak, [2003] O.J. No. 4479 (Div. Ct.); Salter v. Beljinac, 2001 CanLII 40231 (ON SCDC), [2001] O.J. No. 2792 (Div. Ct.)];

Noise

12. The Landlord indicated that a main reason she and her husband wish to relocate is because he is a light sleeper. The Tenant and Landlord agreed that a highway runs in front of the property where many trucks refuel at the Francis Fuels station across the street at all hours of the day and night. I found the Landlord's desire to relocate to be inconsistent with her goal of achieving a quiet environment for her husband. The Landlord indicated the Tenant's unit is at the back of the house facing the trees. However, the Tenant testified it is impossible to sleep with the windows open at night because of all the noise. The Board finds it unlikely that the noise from the highway will be mitigated just by sleeping at the back of the house. Furthermore, the Landlord stated she works from home as an author. When asked about occupying the other apartments, she said she was not inclined to because neighbours are noisy. Her desire for a quiet life seems to be inconsistent with the actual environment she seeks to occupy. If the neighbours are noisy in the fourplex,

ostensibly they would disturb her if she lived in the Tenant's apartment. These inconsistencies cause the Board to question her genuine intention to live there.

Yard

13. The Landlord described the orchard and the gardens as being a significant draw to the property. She indicated that she has planted many types of trees and shrubs, and that yard work is difficult to accomplish because they live over an hour away in Osgoode. Were they to live closer, she could enjoy the yard more and spend more time there.
14. The Tenant described the orchard the Landlords planted as being small and not full grown or blossoming.
15. The Board is not satisfied that having access to a large yard is enough to substantiate a genuine intention to occupy the unit for at least 12 months when the yard itself is only useful 4-5 months of the year and the trees are still growing.

Tenant Relationship

16. Under s. 202(1) in making findings on an application, the Board shall ascertain the real substance of all transactions and activities relating to a residential complex or a rental unit and the good faith of the participants and in doing so,

(b) May have regard to the pattern of activities relating to the residential complex or the rental unit.

17. The present application was brought during ongoing litigation between the parties at the Board. The Landlord purchased the building with 4 units in 2022. The Tenant was already residing there and is a 68-year-old part-time supply teacher who travels around the community for work, and who says it is would be incredibly onerous for her to move or find similar accommodation. In 2023, the Tenant filed a T2/T6 application that resulted in a bitter, 2-year long dispute about the use of the garage, parking and harassment. That litigation culminated in a cost award in LTB-T-029961-23 to the Tenant of \$6,518.00 and a \$1000.00 administrative fine, both of which were paid by the Landlord on November 7, 2025, just a few weeks before the hearing in this matter on November 25, 2025. Administrative fines are reserved for egregious behaviour to deter landlords from unwelcome conduct. The Tenant testified that the Landlord failed to comply with the Order and so the Tenant had to have the locks changed.
18. To make a determination about the Landlord's good faith and genuine intention, s. 202(1)(b) requires the Board to examine the relationship between the parties comprehensively in all their aspects. The Board notes a pattern of behaviour on the part of the Landlord to deprive and persecute the Tenant by restricting her legal rights under the tenancy agreement. The Tenant described having her things emptied out of the garage and strewn on the lawn, the Landlord having taken photographs of the apartment in the Tenant's absence without her permission, having access to the garage restricted, locks changed, living 21 days without heat, and one entry without sufficient notice to show the apartment to a prospective tenant.

19. The Board is satisfied that the relations between the parties are acrimonious enough to call into question the good faith of the Landlord now, whose burden it is to demonstrate a genuine intention to occupy the rental unit. When the Tenant was asked whether she thought the Landlord was being retaliatory toward her, without hesitation she affirmed it to be the case and said that the Landlord has been trying to get rid of her for a long time and that harassment has continued despite last month's order. Nevertheless, the Tenant asserts she wishes to stay in the unit. The Landlord apologized to the Tenant twice during the hearing and assumed responsibility for her actions, noting that she may well be 'a difficult person' and lamenting her lack of maturity or training to be a landlord. The Tenant accepted the apology. However, the timing of the apology and the apology itself are suspicious at this late stage in a separate proceeding where the Landlord is applying to the Board to assert her own property rights, and is required to prove her good faith on a balance of probabilities in order to gain possession of the property she contracted out in a tenancy agreement.
20. For these reasons, the Board finds it is more likely than not that this application was brought in retaliation against the current Tenant for having exerted her rights during her tenancy.
21. Therefore, the N12 notice was given in bad faith because the Landlords do not have a genuine intention to occupy the rental unit for one year. This is demonstrated by the history of interference with the Tenant and compounded by the Landlord's inconsistent statements about noise, family ties in the region, and the size of the apartment.
22. For these reasons the application is dismissed.

Refund of compensation

23. The Landlord compensated the Tenant an amount of **\$950.00** by money order on April 29, 2025, which was slightly more than one month's rent. This sum should be refunded by the Tenant.

It is ordered that:

1. The application is dismissed.
2. The Tenant must refund the compensation given by the Landlord in the amount of **\$950.00**. If the Tenant does not pay the Landlord the full amount owing on or before by January 31, 2026, the Tenant will start to owe interest. This will be simple interest calculated from February 1, 2026 at 4.00% annually on the balance outstanding.

January 9, 2026

Date Issued

February 25, 2026

Date Amended

Vanessa Davies
Member, Landlord 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 June 23, 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.