



Order under Section 21.2 of the Statutory Powers Procedure Act and the Residential Tenancies Act, 2006

Citation: FELTZ v SMITH, 2026 ONLTB 20260

Date: 2026-03-12

File Number: LTB-T-056487-22-RV2

In the matter of: 692 COUNTY ROAD 3
BELLEVILLE ON K8N4Z1

Between: JOANNA FELTZ Tenants
SEBASTIEN SHANK

And

VICKI SMITH Landlord

And

Nicholas Enright Purchaser

Review Order

JOANNA FELTZ (one of the 'Tenants') applied for an order determining that VICKI SMITH (the 'Landlord') and/or Nicholas Enright (the 'Purchaser') gave a notice of termination in bad faith.

This application was resolved by order LTB-T-056487-22, issued on April 17, 2025. That order was overturned on review, and a new hearing held. The application was then resolved by order LTB-T-056487-22-RV, issued on November 6, 2025.

On November 14, 2025, the Landlord requested a review of the order.

The review was heard by videoconference on March 4, 2026.

The Tenant Joanna Feltz, the Landlord, the Landlord's representative Lorrie McCullough, and the Purchaser attended the hearing. Dave Quickert testified for the Landlord.

Reasons:

Review

1. This application was heard on July 3, 2025. Only the Tenant Joanna Feltz attended the hearing, and a decision was made based on her evidence.
2. The Landlord requests a review on the basis that she was not reasonably able to participate in the July 3 hearing. At the review hearing, she testified that she did not

receive the Notice of Hearing (NoH) which the Landlord and Tenant Board (LTB) emailed to her on May 27, 2025. She was aware of the hearing date, and meant to attend on July 3, but did not have a link to connect to the videoconference because the link was provided in the NoH. She was self-represented at the time, and did not realize in advance that she ought to have received the NoH sooner. On the morning of the hearing, she tried to contact the LTB to ask for the link, but was not able to connect with tech support because their contact information was also found on the NoH. As a result, she missed the hearing.

3. On a balance of probabilities, I find the Landlord's testimony to be credible. Her testimony is consistent with the LTB's records which show that she emailed the LTB's general email address on the morning of July 3 asking how to connect to the hearing.
4. Pursuant to *Kizemchuk v. 60 Montclair Limited*, 2024 ONSC 6140 (CanLII), a party requesting a review must demonstrate that they exercised diligence in their effort to attend the original hearing. In this case, while the Landlord's efforts were not perfect, I am satisfied that she was sufficiently diligent to justify a finding that she was not reasonably able to participate in the hearing. She did not receive the NoH, but did not realize it was missing until the morning of the hearing. She then made efforts to connect, but it was too late.
5. I therefore granted the review, and held a new hearing of the application with all three parties present.

New hearing

Parties

6. Joanna Feltz and Sebastian Shank were both tenants of the rental unit. Vicki Smith was their landlord. The proceeding arises from a sale of the premises to Nicholas Enright. Ms. Feltz filed this application against Ms. Smith and Mr. Enright, and named Mr. Shank as a tenant. Hence, Mr. Shank is a party to the application pursuant to section 187(1) of the *Residential Tenancies Act, 2006* (RTA), but he is not an applicant or a respondent. Effectively, he is a third party who has the right to join Ms. Feltz as an applicant if he wishes to do so.
7. Mr. Shank was aware of the application. When Ms. Feltz filed it, they were spouses. Notice of the first hearing date, in 2023, was mailed to him at the address he shared with Ms. Feltz at that time.
8. The tenants subsequently separated and moved to new addresses. Mr. Shank has not updated his contact information in the LTB's portal, and has likely not received notice of more recent hearing dates. He did not attend the March 4, 2026 hearing.
9. The Landlord argues that this matter cannot proceed without Mr. Shank's participation. I do not agree. Mr. Shank has had a reasonable opportunity to participate in the proceeding. He could have kept his contact information up-to-date if he wanted to receive notice of the hearing. He is not required to participate if he does not wish to.

10. In these Reasons, I will refer to Ms. Feltz and Mr. Shank as the Tenants, Ms. Smith as the Landlord, and Mr. Enbright as the Purchaser. The remedies awarded will be awarded to Ms. Feltz as the applicant tenant.

Facts

11. The facts of this case are largely undisputed. All the witnesses agreed as to what occurred.
12. The rental unit is a house. The Tenants rented the unit on a one-year lease starting June 1, 2020. The monthly rent was \$2,500.00.
13. In October, 2020, the Landlord told the Tenants that she had decided to list the property for sale. She told them that they would be able to stay to the end of their lease, but might have to move after that if a purchaser required the property for their own use. She then listed the property for sale through a real estate agent, Dave Quickert.
14. The Purchaser is a real estate investor. He saw the property for sale, and was interested in purchasing it to operating as a rental. He wanted the property to be vacant when he purchased it, so that he could choose his own tenants and set his own rent, rather than continuing the Tenants' tenancy at \$2,500.00 monthly.
15. One of the Purchaser's, Triple A Group Limited, made an offer to purchase the property. The offer included a clause that the Landlord was to provide Triple A with vacant possession on closing.
16. The Landlord asked Mr. Quickert what the Purchaser intended to do with the property. Mr. Quickert told her that he didn't know. He confirmed that the offer stated that the Purchaser wanted to buy the property untenanted.
17. On October 29, 2020, the Landlord accepted the offer and signed an Agreement of Purchase and Sale (APS) with Triple A, with a closing date of June 1, 2021.
18. The Landlord then sought advice from a property management company, Pinnacle Property Management. She told Pinnacle that she was selling the property to a buyer who wanted vacant possession, and asked how to proceed. She says that Pinnacle advised her to give the Tenants an N12 notice, and helped her prepare it.
19. On March 29, 2021, the Landlord gave the Tenants an N12 notice to terminate their tenancy effective May 31, 2021, the last day of their lease. The N12 asserted that "I have signed an Agreement of Purchase and Sale of the rental unit and the following person intends to move into the rental unit: The purchaser."
20. The Tenants moved out of the unit on or about June 29, 2021. I will discuss the circumstances of their move in more detail below.
21. After moving out, the Tenants discovered that the Purchaser had not moved into the unit, as the N12 had stated he would. Ms. Feltz then brought this application alleging that the Landlord and/or the Purchaser had given the N12 in bad faith.

Issues

22. Ms. Feltz is entitled to a remedy under section 57(1)(b) of the RTA if she can prove three things: that the Landlord or Purchaser gave the N12 in bad faith; that the Tenants vacated the unit as a result of the N12; and that the Purchaser did not occupy the unit within a reasonable time after she vacated.
23. In this case, there is no dispute that the Purchaser did not occupy the unit after the Tenants vacated. He never intended to occupy the unit. He rented it to new tenants, as he had always intended.
24. The questions before me are therefore whether the N12 was given in bad faith, and whether the Tenants vacated as a result of the N12.
25. Since the Landlord gave the N12 for the benefit of the Purchaser, pursuant to *Elkins v. Van Wissen*, 2023 ONCA 789 (CanLII) I must consider whether the Landlord acted in bad faith, and also whether the Purchaser acted in bad faith.

Did the Purchaser give the N12 notice in bad faith?

26. The evidence is clear that the Purchaser did not give the N12 in bad faith. He had no involvement in giving the N12 at all.
27. The Purchaser offered to purchase the property on the condition that the vendor deliver vacant possession on closing. There was nothing improper about making that offer. The Purchaser did not claim that he intended to move into the property, or ask the Landlord to give an N12, or otherwise suggest that the Tenants' tenancy could be terminated for his own residential use. There is no evidence that he had any involvement in the Landlord's decision to give the N12.
28. The application against the Purchaser will therefore be dismissed.

Did the Landlord give the N12 notice in bad faith?

29. It is clear that the Landlord gave the N12 in bad faith. The N12 asserted that the Purchaser intended to move into the property. That assertion was false. More importantly, the Landlord had no reason to think that it was true. She testified that she assumed that the Purchaser or a member of his family would move into the unit. There was simply no basis whatsoever for that assumption.
30. The Landlord gave an N12 asserting a fact of which she had no knowledge, based on an entirely unfounded assumption. That alone is sufficient to establish that she gave the N12 in bad faith.
31. Further, even if she had had some reason to think that the Purchaser intended to move in – which she did not – the Landlord would have “had a duty to the Tenants to exercise some due diligence to confirm the good faith intentions of the Purchaser before putting the eviction in motion” (*Elkins* at paras. 50-51). The Landlord in this case did nothing to confirm her assumption that the Purchaser would move in. On the contrary, there were good reasons for her to doubt that her assumption was correct. The Purchaser bought the

property through a corporation, and a corporation cannot personally occupy residential premises (*Elkins* at para. 71).

32. The Purchaser also explicitly told the Landlord, in April 2021, that he intended to rent out the property. After receiving that information, Landlord did not rescind the N12 or tell the Tenants that the assertion she had made in the N12 had been incorrect.
33. The Landlord blames three other people for her actions.
34. First, the Landlord argues that the Purchaser ought not to have requested vacant possession. There is no merit to that argument. The Purchaser was entitled to offer to purchase the property on the condition that it be vacant. The Landlord should not have accepted the offer unless she was able to deliver vacant possession. It was not the Purchaser's business to enquire as to how the Landlord would obtain vacant possession.
35. Second, the Landlord argues that her real estate agent, Mr. Quickert, should have drafted an APS that addressed why the Purchaser wanted vacant possession or how it would be obtained. There is no merit to that argument, either. Mr. Quickert properly told the Landlord that if she accepted the Purchaser's offer, she would be expected to deliver vacant possession on closing. He properly told her that he did not know what would happen to the Tenants' tenancy. There is no evidence that Mr. Quickert advised the Landlord that she could evict the Tenants or that she should accept the Purchaser's offer.
36. Third, the Landlord blames her property management company, Pinnacle. She says that Pinnacle advised her to serve the N12. That was certainly bad advice. However, the Landlord chose to follow Pinnacle's advice. The N12, which she signed and delivered, clearly stated that the Purchaser would move into the unit. She should have known not to sign a statement which she had no reason to believe was true, even if a property manager had advised her to sign it.
37. In sum, the Landlord agreed to deliver vacant possession to the Purchaser, then sought to obtain vacant possession by asserting, without any basis, that the Purchaser intended to move into the unit. The Purchaser did not intend to move into the unit. There can be no doubt that the Landlord gave the N12 in bad faith.

Did the Tenants vacate the unit as a result of the N12?

38. Ms. Feltz testified that after learning that the property was being sold and their tenancy would be terminated, she and Mr. Shank considered their options for new housing. They looked at some properties in the same community, but ultimately decided that they would like to move to Newfoundland.
39. Mr. Shank was in the military, so moving to Newfoundland would require being transferred. Ms. Feltz testified that in some cases, service members can ask to be transferred. Mr. Shank met the requirements to request a transfer to Newfoundland under the military's family reunification policies, because he had a child who lived in Labrador. The Tenants' purpose in moving to Newfoundland was not actually to be closer to Mr. Shank's child, but the child's residence is what qualified him to make the transfer request under the military's policies.

40. Ms. Feltz testified that Mr. Shank requested the transfer. On or about April 22, 2021, the military granted the request and posted Mr. Shank to Newfoundland effective July 15, 2021. The military scheduled movers to pack the Tenants' belongings on June 29, 2021. The Tenants then asked the Landlord to allow them to remain in the unit to the end of June, to which the Landlord agreed. The Tenants moved out on or about June 29.
41. The Landlord argues that, because the military posted Mr. Shank to Newfoundland, he was required to move and therefore did not move as a result of the N12.
42. Neither party adduced any documentary evidence regarding the military's policies. I assume the Landlord is correct that, having been posted to Newfoundland, Mr. Shank was required to move. However, I have no reason to doubt Ms. Feltz's testimony that the reason Mr. Shank was posted to Newfoundland was that he had requested a transfer, and that the reason he requested the transfer was that the Tenants had decided, because they could not stay in the rental unit, to move to Newfoundland.
43. On a balance of probabilities, I am therefore satisfied that the Tenants vacated the unit as a result of the N12 notice.

Remedies

44. For the above reasons, Ms. Feltz has established that the Landlord terminated her tenancy in bad faith pursuant to the test set out in section 57(1)(b).
45. The only remedy Ms. Feltz requests is general compensation. Pursuant to section 57(3)(1.1) of the RTA, general compensation cannot exceed the equivalent of 12 months' rent, which in this case would be \$30,000.00.
46. The parties did not make any submissions as to how much general compensation should be awarded. When asked for submissions, the Landlord's representative argued that any award should be low since the Landlord had not acted in bad faith. This was an attempt to re-argue the substance of the application, and was not helpful in determining the amount of an award given that the Landlord did in fact act in bad faith.
47. Absent any submissions to the contrary, I see no reason to award less than the full amount under section 57(2)(1.1).
48. Ms. Feltz is also entitled to her filing fee of \$53.00 for this application.

It is ordered that:

1. Order LTB-T-056487-22-RV, issued on November 6, 2025, is cancelled and replaced by this order.
2. The Landlord shall pay the Tenant Joanna Feltz \$30,053.00, which represents general compensation and the filing fee for this application.
3. If the Landlord does not pay the full amount owing by March 23, 2026, she will owe simple interest calculated from March 24, 2026 at 4.00% annually on the balance outstanding.

March 12, 2026
Date Issued

Dale Whitmore
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.