



Order under Section 57 Residential Tenancies Act, 2006

Citation: Azar v David, 2026 ONLTB 24077

Date: 2026-03-24

File Number: LTB-T-037052-24

In the matter of: 2515 SKINNER ST
LASALLE ON N9H2R5

Between: Wardon Azar Tenant

And

Antonio David Landlord

Wardon Azar (the 'Tenant') applied for an order determining that Antonio David (the 'Landlord') gave a notice of termination in bad faith.

This application was heard by videoconference on March 3, 2026.

The Landlord, the Landlord's legal representative, J. Hotham, the Tenant, the Tenant's witness, K. Azar ('KA'), and the Tenant's legal representative, T. Lee-Jenkins, attended the hearing.

Determinations:

The Landlord Gave the Tenant a Notice of Termination in Bad Faith

1. Pursuant to subsection 57(1)(a) of the *Residential Tenancies Act, 2006* (the 'Act'), the Tenant proved, on a balance of probabilities, the Landlord gave a notice of termination under subsection 48(1) of the Act in bad faith.
2. Subsection 57(4) of the Act states that "the Board may find that the landlord gave a notice of termination in bad faith despite a previous finding by the Board to the contrary." I am therefore not bound by the Board's findings in order LTB-L-015650-22, issued on March 31, 2023 and amended on May 5, 2023.
3. The parties do not dispute that the Landlord gave the Tenant a Form N12 notice of termination to end the tenancy effective November 30, 2021. The notice states the

Landlord requires the rental unit for his child's residential use. At the March 3, 2026 hearing, the Landlord clarified that he intended to have his elder daughter move into the rental unit when he gave the Tenant the Form N12 notice.

4. When the Tenant did not vacate the rental unit before the date of termination set out in the Form N12 notice, the Landlord filed an application with the Board, which application resulted in Board order LTB-L-015650-22. Because of that order, the Tenant vacated the rental unit on May 7, 2023.
5. At the March 3, 2026 hearing for this application, the Landlord agreed his daughter did not occupy the rental unit and that he advertised the rental unit for rent in April 2024, less than one year after the Tenant vacated the rental unit.
6. Based on the above, I am satisfied that the Landlord gave the Tenant a notice of termination under section 48 of the Act, that the Tenant vacated the rental unit as a result of an order made by the Board based on the notice, and that no person described in the notice moved into the rental unit. Since the Landlord advertised the rental unit for rent less than one year after the Tenant vacated, it is presumed under subsection 57(5) of the Act that the Landlord gave the notice of termination in bad faith.
7. At the March 3, 2026 hearing, the Landlord repeated testimony he introduced at the January 5, 2023 Board hearing to determine Board file number LTB-L-015650-22. The Landlord testified that he gave the Form N12 notice to the Tenant because the Landlord required the rental unit for the Landlord's elder daughter's residential use while the daughter's family home was under construction.
8. In *Mason v. Azubalis*, 2025 ONSC 5770 (Div. Ct.), the Divisional Court affirmed at paragraph 24 "that it was important for the Board to determine whether the Landlord's son genuinely intended to move into the unit. The Landlord's good faith would be meaningless if the son did not intend to move into the unit." In that case, the Landlord's son attended the Board hearing to give sworn testimony to supplement information in the statutory declaration the son gave pursuant to subsection 72(1) of the Act.
9. By contrast, the Landlord's daughter, who was identified in the Form N12 notice of termination as the person who personally requires the rental unit, did not participate in this proceeding. There was accordingly no independent evidence to support the Landlord's assertion that his daughter wanted to, and would have, moved into the rental unit if the Tenant had vacated in accordance with the Form N12 notice of termination.
10. In the circumstances, I draw a negative inference from the Landlord's omission to call his daughter as a witness in the proceeding. The daughter's testimony, and any documentary evidence in her possession, were relevant and readily available to the Landlord with a reasonable exercise of diligence. The Landlord's testimony alone, of his intention to have his daughter live in the rental unit when he gave the Form N12 notice of termination to the Tenant, is inadequate to rebut the presumption of bad faith under subsection 57(5) of the Act. Indeed, I note that the Landlord testified at the March 3, 2026 hearing that his daughter continued to live in her rented accommodation while constructing her home, which evidence is inconsistent with the Landlord's claim that his daughter required the rental unit during the same period.

Remedies

11. The Tenant requested an order under subsection 57(3)1 of the Act requiring the Landlord to pay the difference in rent the Tenant paid in the one-year period after vacating the rental unit. The Landlord, however, introduced evidence showing that the Tenant rents a property owned by two of the Tenant's sons, including the Tenant's witness, KA. The Tenant agreed under cross-examination that his sons are his landlords.
12. Since the new tenancy agreement between the Tenant and his sons is not at arm's length, I find it is not appropriate to order the Landlord to pay the difference in rent the Tenant paid to his sons after vacating the rental unit. Moreover, the Tenant did not introduce reliable evidence that he in fact paid \$2,500.00 a month to his sons. Neither the Tenant, nor KA, submitted banking information, rent receipts, income tax filings, or any other thing to support the Tenant's assertion of the amount of rent the Tenant paid after vacating the rental unit. Like the Landlord's omission to call his daughter as a witness, I draw a negative inference from the Tenant's omission to introduce evidence that should have been readily available with a reasonable exercise of diligence.
13. The Tenant also requested an order requiring the Landlord to pay \$14,160.00 in general damages pursuant to subsection 57(3)4 of the Act. Although described in the T5 application form and amended T5 application form as a request for general compensation, the substance of the Tenant's written pleadings, and the evidence and submissions the Tenant introduced at the hearing, involve non-pecuniary losses. A request for non-pecuniary losses is consistent with a request for general damages under subsection 57(3)4 of the Act, and not for general compensation under subsection 57(3)1.1, which contemplates "expenses".
14. Overall, I find the Tenant's testimony about the impact of the Landlord's actions is not reliable and therefore inadequate to make determinations necessary for the Board to exercise its discretion under subsection 57(3)4 of the Act. For example, although the Tenant at first asserted that vacating the rental unit caused the Tenant to develop mental health symptoms requiring him to leave work and begin receiving long term disability benefits, he later agreed under cross-examination that, as noted in paragraph 32 of Board order LTB-L-015650-22, he began receiving those benefits before vacating the rental unit.
15. The Tenant was also selective when describing other ways that vacating the rental unit impacted him and his household. In addition to omitting that he pays rent to his sons, when the Tenant described the emotional trauma of being separated from his sons after previously living with them in the rental unit, he omitted to mention that his sons live approximately 10 minutes away, per KA's testimony.
16. Regardless of whether or not the Tenant's apparent misstatements of fact and exaggerations were simple errors of memory or an honest misunderstanding, I find the Tenant's testimony of how the Landlord's actions affected him and his household is not reliable. The Tenant's claim for \$14,160.00 in general damages is therefore not reasonable in the circumstances.
17. The Tenant's witness KA, however, was a reliable witness. KA described a sense of urgency and the inconvenience of having to find new accommodation after the March 31, 2023 Board order. KA confirmed the Tenant's testimony that KA and two other brothers

lived with the Tenant at the rental unit. After vacating the unit, KA decided to leave the Tenant's household in favour of residing with his girlfriend. KA also confirmed that he and one other brother purchased the property the Tenant currently rents.

18. The Landlord's legal representative did not cross-examine, or otherwise challenge, KA's testimony, above. KA did not exaggerate how vacating the rental unit impacted him and the Tenant's household. Also, elements of KA's testimony – including confirming that the Tenant's new tenancy agreement is not an at arm's length agreement – were adverse to the Tenant's claim, lending credibility and reliability to KA's evidence.
19. Since a member of the Tenant's household suffered non-pecuniary losses from the Landlord's bad faith Form N12 notice of termination, the Tenant is entitled to an order for general damages under subsection 57(3)4 of the Act.
20. In the circumstances, I find it is reasonable to order the Landlord to pay the Tenant \$1,000.00 in general damages under subsection 57(3)4 of the Act. In arriving at this amount, I considered the Divisional Court's decision in *Mejia v. Cargini*, 2007 CanLII 2801 (Div. Ct.), where the Court awarded the tenant \$4,000.00 – or approximately \$6,000.00 today according to the Bank of Canada's inflation calculator¹ – because the landlord's associates assaulted the tenant. Although the Landlord in this case did not commit a criminal act, I am satisfied KA's testimony describes a non-pecuniary loss that is compensable under subsection 57(3)4 of the Act. While certainly not trivial, I find that KA's evidence of stress and inconvenience less impactful than the assault that took place in *Mejia*. An order requiring the Landlord to pay the Tenant \$1,000.00 reflects this.
21. The Tenant did not introduce reliable evidence of out-of-pocket expenses related to vacating the rental unit and moving to a new accommodation. Neither the Tenant, nor KA, introduced evidence to support the reasonableness and reliability of their \$750.00 estimate for moving costs. There shall accordingly be no order pursuant to subsection 57(3)1.2 of the Act.
22. The Tenant did not request an order requiring the Landlord to pay an administrative fine pursuant to subsection 57(3)4 of the Act, and the parties did not raise the matter during the proceeding. In the circumstances, I find it is not appropriate to order an administrative fine against the Landlord.
23. All the reasons for this order are contained herein, and no further reasons will be given.

It is ordered that:

1. The total amount the Landlord shall pay the Tenant is \$1,000.00 for general damages.
2. The Landlord shall pay the Tenant the full amount owing by April 4, 2026.
3. If the Landlord does not pay the Tenant the full amount owing by April 4, 2026, the Landlord will owe interest. This will be simple interest calculated from April 5, 2026 at 4.00% annually on the balance outstanding.

¹ <https://www.bankofcanada.ca/rates/related/inflation-calculator/>

4. The Tenant has the right, at any time, to collect the full amount owing or any balance outstanding under this order.

March 24, 2026

Date Issued

Harry Cho

Vice Chair, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor

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