



Order under Section 57 Residential Tenancies Act, 2006

File Number: LTB-T-057972-25

In the matter of: 1338 Pinehurst ave
Oshawa ON E7B1R2

Between: Gaston Brisson Tenant

And

Paul Thompson Landlord

Gaston Brisson (the 'Tenant') applied for an order determining that Paul Thompson (the 'Landlord') gave a notice of termination in bad faith ('T5 application').

This application was heard by videoconference on March 11, 2026. The Tenant attended the hearing. The Landlord and the Landlord's legal representative Beverly Alfred attended the hearing.

At the outset of the hearing, The Tenant stated that he terminated the solicitor-client relationship with his legal representative Carson Frankum who was present at the hearing. The Tenant proceeded at the hearing self-represented.

Determinations:

Preliminary Issue:

1. At the hearing, the Landlord states the T5 application is statute barred and the Landlord requests a dismissal of the Tenant's T5 application. The Landlord states the T5 application notes that the Tenant moved out of the rental unit on September 20, 2023 but the Tenant did not file the application until July 15, 2025 which is undisputed by the Tenant.
2. The Tenant states that discoverability applies. He states the time does not start to run on the limitation period until the material facts are discovered. The Tenant states that the Landlord actively concealed that no one moved into the rental unit after the Tenant had vacated. The Tenant states he did not believe the Landlord served the N12 notice of termination in bad faith at the time it was served on the Tenant. The Tenants states he vacated as a result of the N12 notice of termination and moved to New Brunswick.
3. The Tenant states in August 2024, he received a copy of the Landlord's L10 application which was served on the Tenant in New Brunswick. The Tenant states in July 2025, he returned to the area where the rental unit is located to respond to the L10 application and

speak with some of the neighbours as a hearing was scheduled for August 2025. The Tenant states he noticed the rental unit was under renovations and that nobody had moved in.

4. The Tenant relies on a court decision, *Sabatino v. Liptay* 2012 4134 ONSC. The Tenant states in that decision, the court determined that the clock does not start running on the limitation period until the Tenant has knowledge of the bad faith. The decision was not provided by the Tenant for the hearing and I stated at the hearing that I could not locate the decision on CanLII.org. The Landlord also could not find the decision. Therefore, as the decision was not properly before me, I could not review it and therefore it has not been considered.
5. The Tenant also relies on two Landlord and Tenant Board ('LTB') decisions, TSL 65561-15. The Tenant states in that decision, the LTB allowed the tenant to proceed on a T5 application because the tenant discovered the for sale sign past the date of the limitation period. The Tenant also relies on CEL-73772-18. The Tenant states that in that decision, it was noted that the tenant was not penalized for filing the T5 application late because the tenant did not discover that the landlord never intended to move in until the limitation period had passed. These two LTB decisions were not produced for the hearing and I could not locate them on CanLII.org and neither could the Landlord. As both decisions were not properly before me, they have not been considered.
6. Subsection 57(2) of the *Residential Tenancies Act, 2006* (the 'Act') stipulates the following:

Time Limitation

- (2) No application may be made under subsection (1) more than one year after the former tenant vacated the rental unit.

7. The Tenant's application is dismissed. This is because the Tenant went back to the rental unit in July 2025 and discovered the rental unit was undergoing renovations and the Tenant states that no one had moved in. I do not find the principle of discoverability applies because the information regarding the rental unit was available prior to July 2025, it was not until July 2025 that the Tenant discovered it and then filed the application on July 15, 2025. Therefore, I find the application is statute barred pursuant to s.s. 57(2) of the Act because the application was not filed within one year of the date the Tenant vacated the rental unit.

It is ordered that:

1. The Tenant's T5 application is dismissed.

March 26, 2026
Date Issued

Kimberly Parish
Vice Chair, Landlord and Tenant Board

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