



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

**Citation:** DENT v Hek, 2026 ONLTB 10886

**Date:** 2026-03-24

**File Number:** LTB-T-010422-23-RV

**In the matter of:** 2803, 219 FORT YORK BOULEVARD  
TORONTO ON M5V1B1

**Between:** FELIX DENT Tenant

**And**

MAGDALENA Hek Landlord

**And**

Andrew Man-Jun Chow Purchaser

**Review Order**

FELIX DENT (the 'Tenant') applied for an order determining that MAGDALENA Hek and Andrew Man-Jun Chow (the 'Landlord') gave a notice of termination in bad faith.

This application was resolved by order LTB-T-010422-23 issued on May 6, 2024.

On July 24, 2024, the Purchaser requested a review of the order and that the order be stayed until the request to review the order is resolved. The Purchaser alleged that there is a serious error in the order and that they were not reasonably able to participate in the proceeding.

On August 1, 2024, interim order LTB-T-010422-23-RV-IN was issued, staying the order issued on May 6, 2024.

Following a hearing on November 7, 2025, order LTB-T-001462-25-RV-IN2 was issued on November 25, 2025, granting the Purchaser's request. The application was adjourned for a new hearing to be held at a future date.

This application was heard by videoconference on March 31, 2025, July 9, 2025, and January 29, 2026. The Tenant, the Landlord, the Landlord's Legal Representative, C., Nastas, the Purchaser, and the Purchaser's Legal Representative, J. Baboulas, attended the hearing.

The Landlord's witnesses, A. Lakostik (AL), and J. Solomon (JS), the Purchaser's witness, B. Chippa (BC), also attended the hearing. D. English represented the Tenant on March 31, 2025.

**Determinations:**

1. As explained below, the Tenant proved the allegations contained in the application on a balance of probabilities. As the Landlord gave the N12 notice of termination without first obtaining the permission of the Purchaser to do so, I am satisfied that the Landlord gave the notice in bad faith. Therefore, the Landlord must pay to the Tenant \$14,826.40.

***Tenant's Evidence***

2. There is no dispute that the Tenant, who moved into the rental unit on October 24, 2014, vacated the unit on July 1, 2022, following the receipt of a Notice to End your Tenancy Because the Landlord, a Purchaser or a Family Member Requires the Rental Unit (N12). The Landlord served the notice indicating that a Purchaser intends to occupy the rental unit and gave a termination date of July 15, 2022.
3. The Landlord's real estate agent and witness, AL, served the Tenant with the notice on May 12, 2022.
4. The Tenant secured alternative accommodation in the same neighbourhood and signed a new tenancy agreement on June 27, 2022. While the lawful monthly rent for the rental unit was \$2,261.80, the rent for the new unit was \$3,400.00. This is an increase of \$1,138.20 monthly for which the Tenant requested reimbursement for a period of 12 months.
5. On September 1, 2022, the rental unit was listed for rent at \$3,600.00 and re-rented at that rate on September 6, 2022.
6. Subsection 57(1)(b) of the *Residential Tenancies Act, 2006* (the 'Act') requires the Tenant to prove each of the following on a balance of probabilities:
  - The Landlord gave the Tenant an N12 notice of termination under section 49 of the Act;
  - The Tenant vacated the rental unit as a result of the N12 notice of termination;
  - No person referred to in subsection 49(1) or 49(2) of the Act occupied the rental unit within a reasonable time after the Tenant vacated; and
  - The Landlord served the N12 notice of termination in bad faith.
7. As they are uncontested, I find that the Tenant satisfied the first three requirements above because he received an N12 notice of termination, vacated the unit because of the notice and rather than the Purchaser occupying the unit, it was re-rented to new Tenants in September 2022, less than a year after the Tenant vacated the rental unit. This engages section 57(5)(c) of the Act which provides that there is a presumption of bad faith, unless the contrary is proven on a balance of probabilities, if the Landlord advertises the rental unit for rent within a year after the Tenant vacates the unit.
8. In *Elkins v. Van Wissen*, 2023 ONCA 789, the Court of Appeal for Ontario held that the object of section 49(1) and 57(1)(b) of the Act is to prevent the sale of a property from being used to unlawfully evict a tenant. The LTB must consider all the relevant evidence regarding the Landlord's bad faith under section 57(1)(b) of the Act, and the Purchaser's good faith.

9. The court further held that if the LTB restricts its consideration to only the existing evidence at the time the landlord gave the N12 notice of termination, the LTB will preclude itself from ascertaining the true substance of the transaction between the landlord and the purchaser and from conducting a fair assessment of their good faith.

### ***Landlord's Evidence***

10. The Landlord testified that she served the N12 notice because the rental unit was sold, and the Purchaser intended to reside in the unit. The sale closed on July 18, 2022.
11. The Landlord relied on a document titled UNDERTAKING, WARRANTY, DIRECTION AND DECLARATION from her lawyer and witness, JS. The document states in paragraph 1 (iv) that the vendor undertakes to *'deliver vacant possession and keys of the premises on closing, in accordance with the terms of the purchase agreement'*.
12. Paragraph 2 (iv) of the document states *'the property is a personal use property or a used home occupied by the Vendor or the Vendor's tenant(s) and is not a substantially renovated residential complex as contemplated under the Excise Tax Act.'*
13. On April 22, 2022, the Landlord sent a letter to the Tenant informing him that she intends to sell the rental unit. On the same date, AL sent an email to the Tenant, copying the Landlord, introducing herself as the Landlord's real estate agent and stating:  
  
*'... we can't ask you to leave due to selling, although once we have an Agreement of Purchase and Sale accepted, the Landlord has the right as per form N12 to End a Tenancy Because the Landlord, a Purchaser or a Family Member Requires the Rental Unit. ... There is also possibility that the potential buyer will like to continue renting, in that case you could continue living in this unit under new landlord.'*
14. On May 11, 2022, AL informed the Tenant that the Purchaser will carry out renovations in the unit and occupy it by August 1, 2022. The Landlord believed that the Purchaser intended to occupy the rental unit at the time the N12 was served on May 12, 2022, because the Purchaser's realtor, BC, told her so. The Landlord relied on an email from BC to AL on May 10, 2022, in which BC states that the Purchaser was looking to spend at least \$50,000.00 to renovate the unit.
15. On cross-examination, the Landlord stated that she was unaware of paragraph 8 of her solemn declaration on the sale of the unit, dated July 7, 2022, which states that *'The property is occupied by the Owner'*.
16. The Landlord confirmed that Schedule A of the Agreement of Purchase and Sale states, amongst other things that *'The Seller agrees to vacate the property in a broom-swept condition ... The Seller agrees to provide Vacant possession of the unit upon the closing date.'*
17. The Landlord's witness/lawyer, JS, testified that he sent a letter to the Landlord on February 16, 2024, informing her that he had reviewed his file and spoken with AL who was advised that the Purchaser would reside on the premises. JS stated that he believed the rental unit was vacant and would be occupied by the Purchaser. The Purchaser's address for service, provided by his lawyer, was that of the rental unit.

18. On cross-examination, JS stated that he did not receive any documentation from the Purchaser's lawyer indicating the unit was occupied, and that additional steps would have been taken had he been aware of the tenancy. JS was also unaware that an N12 notice was issued by the Landlord.
19. JS confirmed that the Landlord's undated UNDERTAKING, WARRANTY, DIRECTION AND DECLARATION was signed by the Landlord in his office on July 2, 2022.
20. AL testified that after consulting with her office, she was advised that the appropriate step was to issue an N12 notice on the Tenant, and she instructed the Landlord accordingly. AL, who prepared the N12, believes she gave a copy to JS.
21. AL further stated that she orally informed BC that there is a Tenant in the unit and he told her that the Landlord would renovate and occupy the unit.
22. On cross-examination, AL stated that she was aware that a Purchaser could get in legal trouble if they rent out the unit less than a year after claiming they intend to move in, and she expected BC to know that.
23. In August 2022, BC asked AL's permission to use pictures she had taken of the unit. After confirming that he wanted to list the unit for rent, AL permitted him to use the outside pictures only.

#### ***Purchaser's Evidence***

24. The Purchaser's witness and real estate agent, BC, testified that he was aware that the rental unit was occupied by a person who was not the owner of the unit. BC acknowledged that an MLS form dated May 5, 2022, indicates that a Tenant occupied the rental unit.
25. While BC acknowledged the conversation with AL in which he was told that the Tenant would vacate the unit, he was never informed that an N12 notice would be served. During a visit to the rental unit, BC saw the Tenant but there was no discussion about why he was vacating the unit.
26. In August 2022, he contacted AL to request permission to utilize her pictures of the unit for a rental listing. AL gave permission and did not mention that an N12 was served by the Landlord. The Purchaser was not asked to sign an affidavit saying he would occupy the unit for one year.
27. The Purchaser testified that he knew the unit was occupied but he did not know the occupant's relationship with the Landlord and was not told about the N12 notice. The Purchaser relied on a March 20, 2025, letter from his lawyers who stated that they were unaware there was a Tenant in the unit for the following reasons:
  1. *the Agreement of Purchase and Sale stated the seller would vacate the property, with no indication of tenancy (see paragraph 5 of Schedule A, enclosed).*
  2. *We received an undertaking from the seller, commissioned by their lawyer, assuring vacant possession (see paragraph 1. iv, enclosed).*
  3. *The seller provided a statutory declaration, also commissioned by their lawyer, confirming the property was owner-occupied (see paragraph 8, enclosed).*

4. On closing, the seller's lawyer provided us with the lock box code along with the keys.

### Analysis

28. Section 49 (1) of the Act provides that a *'landlord of a residential complex that contains no more than three residential units who has entered into an agreement of purchase and sale of the residential complex may, on behalf of the purchaser, give the tenant of a unit in the residential complex a notice terminating the tenancy, if the purchaser in good faith requires possession of the residential complex or the unit for the purpose of residential occupation by the purchaser; the purchaser's spouse; a child or parent of the purchaser or the purchaser's spouse; or a person who provides or will provide care services to the purchaser, the purchaser's spouse, or a child or parent of the purchaser or the purchaser's spouse...'*
29. The facts of this case demonstrate that the N12 notice was served in bad faith as the Purchaser did not occupy the rental unit after the Tenant vacated. The Purchaser's failure to take possession is inconsistent with the reason provided in the notice. The gist of the Landlord's argument is that the Purchaser was aware that there was an existing tenancy, and their request in the Agreement of Purchase and Sale for vacant possession of the unit, implicitly gave permission for the Landlord to serve the N12 notice. The Purchaser disagreed with the Landlord's assertion and denied any knowledge that the Landlord served the N12 notice.
30. Based on all the evidence, I find that the notice was not issued for the purpose of a genuine occupancy, and the Landlord bears the full responsibility for that. There is nothing on the record to support a finding that the Purchaser or anyone in his family, intended to occupy the unit. For example, in the email from May 10, 2022, BC says the Purchaser intends to renovate the rental unit, but nothing is said about an intention to occupy the unit.
31. In addition, the Landlord's lawyer was unaware there was a tenancy or that an N12 notice was served. There is also nothing on the record to demonstrate that the Landlord informed the Purchaser about the N12 notice when the Purchaser requested permission to use the Landlord's pictures of the rental unit for advertisement purposes in August 2022.
32. It is a fallacy for the Landlord to claim that the Purchaser authorized the service of the N12 notice by simply requesting vacant possession of the rental unit. With no other corroborating evidence, a request for vacant possession in an Agreement of Purchase and Sale does not constitute authorization to serve an N12 notice or demonstrate a good faith intention. In this situation where one document says the unit was tenanted and another says that it was occupied by the owner, I would for the sake of argument accept that the Purchaser was aware of the tenancy, but it still does not absolve the Landlord who failed to actively ascertain the Purchaser's intentions.
33. Section 49(1) of the Act requires the Landlord to serve the notice *if the purchaser in good faith requires possession of the residential complex or the unit for the purpose of residential occupation*. The N12 notice is a legal document with significant consequences because it terminates a tenancy. Hence, the reason for the termination must be ascertained by a Landlord who gives the notice. In this case, the Landlord indicates that the Purchaser in good faith intends to occupy the unit without first obtaining that information from the Purchaser. This demonstrates bad faith because the Landlord's concern appeared to be

primarily focused on the sale of the unit and eliminating any obstacles to it, rather than ensuring that the notice was served for a valid reason.

34. In this circumstance, the Landlord's lack of diligence benefitted the Purchaser, who illegally re-rented the unit at a higher rent within two months of purchasing it. Although it is the Purchaser who profited from the illegal conduct, the Landlord bears the consequences for serving the notice and will be ordered to pay the costs outlined below.

#### Remedies

35. Having succeeded in proving the notice was given in bad faith, the Tenant, pursuant to section 57(3) (4) of the Act is entitled to the difference (\$1,138.20) between the rent for the rental unit (\$2,261.80) and the rent for the current unit (\$3,400.00) for a period of twelve months in the total amount of \$13,658.40.
36. Therefore, the Landlord must pay the Tenant \$13,658.40 for the increased rent that the Tenant incurred for a one-year period after the Tenant moved out of the rental unit.
37. Section 57 (3) (2) of the Act provides that the LTB may make an order for an abatement of rent where satisfied that an N12 notice of termination was given in bad faith. The Tenant requested an order for the Landlord to pay 100% rent abatement of \$27,141.60 for a one-year period due to the disruption they suffered to their mental and physical health as well as their finances during the Covid-19 pandemic.
38. Due to the bad faith notice, the Tenant who had occupied the unit for over 7 years, was forced to search for alternative accommodation and vacate the unit, disrupting their lives. While I do not find it appropriate to award rent abatement of 100% for 12 months as requested, 30% is appropriate for 50 days from May 12, 2022, when the notice was served to June 30, 2022, the day prior to when the Tenant vacated the rental unit.
39. As the rent was \$2,261.80, the daily compensation for the unit was \$74.36. The Landlord will be ordered to pay to the Tenant rent abatement of 30% or \$22.30 daily in the amount of \$1,115.00 (\$22.30 x 50 days).
40. The Tenant requested that a fine be awarded against the Landlord. This case shows why it is important for a Landlord who is selling the rental unit or residential complex to obtain, if possible, a sworn affidavit from a Purchaser to confirm their intentions before serving an N12 notice. This is an experience from which I believe the Landlord has gained valuable insight, and I do not find an award of a fine appropriate in this circumstance.

#### **It is ordered that:**

1. The Landlord shall pay the Tenant \$14,826.40. This amount represents:
  - \$1,115.00 for rent abatement from May 12, 2022, to June 30, 2022,
  - \$13,658.40 for the increased rent the Tenant incurred for the one-year period from July 1, 2022, to June 30, 2023, and
  - \$53.00 for the cost of filing the application.
2. The Landlord shall pay the Tenant the full amount owing by April 24, 2026.

3. If the Landlord does not pay the Tenant the full amount owing by April 24, 2026, the Landlord will owe interest. This will be simple interest calculated from April 25, 2026, at 4.00% annually on the balance outstanding.
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**

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**Jitewa Edu**  
Member, 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.