



**Order under Section 57
Residential Tenancies Act, 2006**

File Number: LTB-T-044133-25

In the matter of: 214 FARMSTEAD RD
RICHMOND HILL ON L4S 2J6

Between: Yasar Urlu
Leyla Urlu
Ferhat Yeniceri Tenants

and

Farhad Bagheri Jebelli
Sara Mahshid Landlords

Yasar Urlu, Leyla Urlu and Ferhat Yeniceri (the 'Tenants') applied for an order determining that Farhad Bagheri Jebelli and Sara Mahshid (the 'Landlords') gave a notice of termination in bad faith.

This application was heard by videoconference on March 5, 2026.

The Tenant's legal representative Bilal Kinaci, the Landlord Farhad Bagheri Jebelli and the Landlords' legal representative Ali Golabgir attended the hearing.

Determinations:

1. Neither of the Tenants gave testimony in support of their application. I exercised the discretion contained in Rule 1.6(q) of the Board's *Rules of Procedure* and allowed the Tenant's legal representative to testify in support of the Tenants' application.
2. To succeed on this application, the Tenants must prove each of the requirements of paragraph 57(1)(a) of the Act on a balance of probabilities:
 - (a) The Landlords gave the Tenants notice of termination under section 48 of the Act (an N12 Notice);
 - (b) The Tenants vacated the rental unit as a result of the N12 Notice or as a result of an application to or order made by the Board based on the notice;
 - (c) No person referred to in subsection 48(1) of the Act occupied the rental unit within a reasonable time after the Tenant vacated; and
 - (d) The Landlord served the N12 Notice in bad faith.

3. The Act also contains a reverse onus in subsection 57(5) that says if a landlord gives a notice under section 48 and then puts the unit up for rent within one year of the tenant vacating, the landlord is presumed to have given the notice in bad faith “unless the contrary is proven on a balance of probabilities”. What this means is that the Landlords must prove it is more likely than not they were not acting in bad faith in giving the N12 Notice to the Tenants.
4. In some situations, the Board may determine that an unforeseen change in circumstances preventing the person named in the N12 Notice from taking possession is sufficient to show that the Landlord did not act in bad faith.
5. The Court of Appeal for Ontario has determined that a landlord’s good faith obligations towards the tenants in respect of an N12 notice continue beyond the date it was given to a tenant.¹ It is not sufficient for the Landlord to demonstrate that the intended occupant planned to live in the unit at the time the N12 Notice was given. Rather, a landlord must act in good faith throughout their dealings with their tenant.
6. In this case, the reverse onus provision is engaged because the Landlords agreed they rented the unit within one year of the Tenants’ vacating. Although the Tenants did not testify, the parties agreed that they vacated the unit on June 30, 2024, the date agreed in mediation when the Landlord’s application to repossess came before the Board. I accept this circumstantial evidence as sufficient proof on a balance of probabilities that the Tenants vacated the rental unit as a result of the Board’s order based on the N12 Notice.
7. The Landlords also conceded that no person named in the N12 Notice ever occupied the unit because their circumstances changed. For reasons that follow, I find the Landlords have failed to rebut the presumption of bad faith. The first-named Landlord testified that he was could not take up residence at the unit as he had planned because the Tenants exercised their right to contest the N12 at a hearing, and during the delay occasioned by that process, his employer required him to return to full-time in-person work. As such, he could not return to Ontario as he had hoped because his professional duties required him to remain in Quebec. So he re-rented the unit instead.
8. The Landlords also conceded that they became aware of their changed circumstances, and the need to revise their plans, about a week before the Tenants surrendered possession. Despite this, the Landlords did not alert the Tenants that they no longer required the rental unit for their own use because they weren’t sure that would be the case. The first-named Landlord was actively negotiating with his employer and hoped to persuade it to make an exception in his case and allow him to work from home. Guided by section 202 of the Act, I find the Landlord’s choice to remain silent knowing they no longer required the unit for their own use is not consistent with the continuing duty of good faith as explained in the *Elkins*.

Remdies

9. Having established the grounds for their application, the Tenants are entitled to those remedies they can prove on a balance of probabilities.

¹ *Elkins v. Van Wissen*, 2023 ONCA 789 at paras 42-45 [*Elkins*].

10. I find the remedies claimed must be denied because the Tenants presented insufficient evidence to prove their damages. The Tenant's legal representative who testified had no direct knowledge of facts supporting the claims. He could not speak to the particulars of the Tenants' claim for moving expenses. With respect to the claim for difference in rent, he relied on the Tenants' new lease agreement with the name of the lessor redacted. I will not admit the Tenant's legal representative hearsay testimony nor the Tenants' lease for the truth of their contents. I do not find this evidence to be necessary, for I received no explanation why neither Tenant appeared to testify in support of their application; nor reliable, for the Tenant's legal representative conceded in cross-examination that he did not have direct knowledge of the Tenants' new tenancy agreement but had informed himself by speaking with his clients. This type of evidence demonstrates precisely the dangers of admitting second-hand testimony that cannot be scrutinized through cross-examination. In case of error, I admit this hearsay evidence but give it virtually no weight for reasons stated. I find the Tenants presented insufficient evidence to discharge the burden of proof on a balance of probabilities.
11. For similar reasons, I find the Tenants' claim for general compensation must likewise be denied for there was no witness before the Board who could speak to the suffering, mental distress, and inconvenience for which the Tenants seek compensation.
12. On considering the totality of the evidence, I am not persuaded that an administrative fine is needed in this case to encourage compliance with the Act or to deter future breaches. I find the Landlords' breach was neither deliberate nor a flagrant disregard of the Tenants' rights but based on a genuine belief that having obtained an order for eviction from the Board, they were free to revisit their plans.

It is ordered that:

1. The application is dismissed.

April 1, 2026
Date Issued

Nersi Makki
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.