



Order under Section 57 Residential Tenancies Act, 2006

Citation: MULLAN v CASEY, 2026 ONLTB 25463

Date: 2026-03-31

File Number: LTB-T-001673-23

In the matter of: UPPER UNIT, 467 DREW STREET
OSHAWA ON L1H5B6

Between: LORRIE MULLAN Tenant

And

DIANE CASEY Landlord
THE ESTATE OF MICHAEL PATRICK

And

DARLENE HANNAN Purchaser

LORRIE MULLAN (the 'Tenant') applied for an order determining that DIANE CASEY, THE ESTATE OF MICHAEL PATRICK, (the 'Landlord') and DARLENE HANNAN (the 'Purchaser') gave a notice of termination in bad faith.

This application was heard by videoconference on September 12, 2025.

The Landlord, Diane Casey, Purchaser and the Tenant attended the hearing.

Determinations:

Preliminary Issue

1. Jeremy Hannan was listed as a landlord in the application. However, at the hearing he testified that he was neither an owner of the property nor a purchaser. Accordingly, he is not a proper party to this application and is removed from the style of cause.

T5 Application

2. As explained below, the Tenant proved the allegations contained in the application on a balance of probabilities. Therefore, the Purchaser shall pay the Tenant \$10,300.00.

3. 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.
4. There is no dispute that the Tenant received an N12 notice of termination and vacated the rental unit on October 1, 2021, as a result of that notice.

Did the Purchaser move into the rental unit?

5. The Tenant submits that the Purchaser did not move into the rental unit and instead intended to re-rent the unit at a significantly higher rent. In support, the Tenant provided numerous photographs of the Purchaser's vehicle at another address and a rental listing from 2023 advertising the unit for approximately \$4,500.00 per month, significantly higher than the \$800.00 rent the Tenant was paying.
6. The Purchaser submits that she moved into the rental unit in January 2022 with her son. She acknowledges that she retained ownership of her previous property but states that it is used for her family business and not as her residence. In support, she provided a copy of her driver's licence and utility accounts in her name.

Analysis

7. I find that the Purchaser's evidence was not sufficiently reliable to establish that she moved into the rental unit.
8. First, the Purchaser provided inconsistent evidence regarding the timing of her move into the property. She initially testified that she moved in 2023 and later corrected this to January 2022. This is not a minor discrepancy. The timing of occupancy is a material issue in this application, and a discrepancy of approximately one year significantly undermines the reliability of her evidence.
9. Second, the Purchaser gave conflicting evidence regarding her residence at her previous address. At one point she indicated that she lived there and later stated that she resides at the rental unit. These inconsistencies arose in response to direct questioning and were not adequately explained.
10. While I accept that a witness may occasionally misspeak, I find that the inconsistencies in the Purchaser's evidence were persistent and relate to central issues. I therefore assign reduced weight to her testimony.
11. The Purchaser's documentary evidence does not resolve these concerns. A driver's licence reflects self-reported information and is of limited weight in establishing actual residence. The utility accounts, while in her name, were directed to her previous address, which diminishes their value as sufficient evidence that she resided at the rental unit.

12. On the other hand, I find Tenant's evidence was much more reliable. While I acknowledge that some of the Tenant's evidence is circumstantial, when considered together with the Purchaser's inconsistent testimony and lack of reliable corroborating evidence, I find it more likely than not that the Purchaser did not move into the rental unit.
13. I accept that the Purchaser's son resided at the property. However, the N12 did not identify the son as the intended occupant. The issue is whether the Purchaser herself required the unit for residential occupation. Based on the evidence, I am not satisfied that she did.
14. Further, the Purchaser acknowledged that the unit, or a portion of it, was listed for rent in 2023. The Purchaser did not provide a reasonable explanation for this conduct. I find that listing the unit for rent is inconsistent with a genuine intention to occupy the unit for personal residential use and undermines the Purchaser's claim of good faith.
15. Furthermore, I find the Purchaser did not provide a reasonable explanation as to why the rental unit was listed for rent in 2023. The Purchaser tried to minimize the rental listing as temporary and unsuccessful, but I find it suggests that the rental unit was not genuinely required for the Purchaser's occupation personal occupation.
16. On a balance of probabilities, I find that the Purchaser did not require the rental unit in good faith for the purpose stated in the N12 notice of termination. Accordingly, I find the notice was given in bad faith.
17. The Tenant has proven all the elements of the test under the Act for their application to succeed.

Liability

18. In *Elkins v. Van Wissen*, 2023 ONCA 789, the Court of Appeal for Ontario held that when deciding a T5 application relating to an N12 served for purchaser's own use under section 49 of the Act, the LTB must consider both the landlord's and the purchaser's good faith. After making both those determinations, the Board must then consider what orders to make in respect of the landlord and the purchaser.
19. Even though the Landlord is related to the Purchaser, I accept the evidence of the Landlord that she sold the property following her spouse's death and believed that the Purchaser intended to occupy the rental unit. There is no evidence that she misrepresented the Purchaser's intentions or otherwise acted in bad faith.
20. Accordingly, I find the Purchaser, is solely liable for the remedies awarded to the Tenant.

Remedies

21. The Tenant testified that her rent increased from approximately \$800.00 per month to \$1,450.00 per month. Although the Tenant did not file a copy of her lease her testimony was not meaningfully challenged, and I accept it on a balance of probabilities.
22. The monthly rent differential is \$650.00. Pursuant to s.57(3) of the Act, I award the Tenant 12 months of rent differential, totaling \$7,800.00.

23. The Tenant also seeks general compensation in the amount of \$10,000.00. The Tenant has lived in the rental unit for 17 years. There is no doubt ending a 17-year tenancy would be stressful for the Tenant. However, I find the amount claimed to be excessive.
24. In considering an award for general compensation I have considered the length of the tenancy, the disruption caused by the Tenant's displacement, and the Purchaser's conduct. Balancing these factors, I find that an award of \$2, 500.00 is appropriate and consistent with awards by the Board in similar cases.

It is ordered that:

1. The total amount the Landlord shall pay the Tenant is \$10,300.00. This amount represents:
 - \$7,800 for increased rent the Tenant has incurred for the one year period after the Tenant vacated the rental unit.
 - \$2,500 for general compensation.
2. The Purchaser shall pay the Tenant the full amount owing by April 11, 2026
3. If the Purchaser does not pay the Tenant the full amount owing by April 11, 2026, the Landlord will owe interest. This will be simple interest calculated from April 12, 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 31, 2026
Date Issued

Bryan Delorenzi
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.