



Order under Section 69 Residential Tenancies Act, 2006

File Number: LTB-L-098661-23

In the matter of: Lower Level, 59 Kimbark Dr
Brampton Ontario L6X2A3

Between: Abraham Oommen Landlord

And

Michael Cabral Tenants
Julia Wooder

Abraham Oommen (the 'Landlord') applied for an order to terminate the tenancy and evict Michael Cabral and Julia Wooder (the 'Tenants') because:

- the Landlord has entered into an agreement of purchase and sale of the rental unit and the purchaser in good faith requires possession of the rental unit for the purpose of residential occupation.

The Landlord also claimed compensation for each day the Tenants remained in the unit after the termination date.

This application was heard by videoconference on April 11, 2024, October 3, 2024, and concluded on June 17, 2025.

The Landlord, the Landlord's Legal Representative, the Tenants, and the Tenants' Legal Representative, John Villella, attended the hearing. The Purchaser, Sunnykuty John, attended as witness for the Landlord.

On December 12 & 18, 2025 and January 5 & 20, 2026, the Landlord made unsolicited post-hearing submissions to the Board. To ensure procedural fairness, those submissions were not considered for this order. However, I have considered all of the evidence presented at the hearings and all of the oral testimony. Although I may not have referred to each piece of evidence individually or referenced all of the testimony, I have considered it when making my determinations.

Determinations:

Preliminary Issues:

Purchaser's Declaration:

1. The Tenant's Legal Representative raised the issue that the Purchaser's declaration, uploaded at the time the application was filed, was incomplete, because it was missing the unit number and signature. The Landlord uploaded subsequent versions of the declaration to correct the omission after the application was filed which the Tenant's representative argued was a fatal flaw with the application. The Landlord's Legal Representative explained the mistake was due a clerical error and should not render the application flawed given it identifies the same intended occupant for the rental unit, which in this case is the Purchaser.
2. Section 71.1(1) of the *Residential Tenancies Act, 2006* ('Act') requires the completed declaration be filed at the same time as the application. I find the Landlord substantially complied with statutory requirement of filing the declaration with the application because all declarations name the same intended occupant, and it is that person who has entered into an Agreement of Purchase and Sale ('APS') who requires the rental unit for their own personal occupation. One purpose of the sworn affidavit or declaration for an application based on a s. 49 notice of termination is for the tenant to have a statement of specific intent from the person who personally requires the rental unit, certifying that the person in good faith requires the rental unit for his or her own personal use. In this instance, the Landlord's Legal Representative confirmed that the Purchaser (the intended occupant) signed the declaration and also intends to testify at the hearing. As the Tenants would be given the opportunity to cross-examine the Purchaser regarding his genuine intention to occupy the unit, I found there to be minimal prejudice in allowing the application to proceed.

Disclosure of Prior N12 Notices:

3. The Tenant's Legal Representative raised the issue that the Landlord failed to comply with section 71.1 (3) of the Act, which requires the Landlord to indicate whether he has within two years prior to filing the application, given any other notices with respect to section 48, 49, or 50 of the Act. If the Landlord has not complied with section 71.1 (3), then the Board shall refuse to accept the application for filing under s. 71.1(4). The Tenants' Legal Representative stated that in the Landlord's application failed to disclose that the upstairs tenants had also been served with an N12 notice. Therefore, the Landlord acted in violation of the s. 71.1(3), and the application should be dismissed.
4. The Landlord's Legal Representative stated that the N12 notice for the upstairs tenants was not served on them until after the L2 application was filed for the Tenants in the basement unit. In light of this information, I was not satisfied the Landlord breached s. 71.1(3) of the Act, which only pertains to N12 notices served up to two years *before* the application was filed not after the application was filed as is the case of the N12 notice served to the upstairs tenant. However, since the N12 notice served on the upstairs tenants was relevant to these proceedings, I directed the matter be stood down so the Tenants could be provided with the N12 notice and Purchaser's declaration for that application.

N12 Notice Signature:

5. The Tenants' Legal Representative requested that the N12 notice served on the Tenants be found defective and the application be dismissed as the Landlord's Representative did not personally sign the notice; instead, the Representative's name was typed in the signature box. The Landlord's Legal Representative confirmed that the document was signed and submitted electronically. Based on the evidence before me, I find that the notice was signed in accordance with the Act. The Landlord's Legal Representative confirmed the signing and submission of the notice was done electronically. In *Darragh Constr. & Inv. Ltd. v. Cain* (1988), 30 O.A.C. 1 (DC), the court stated that it is acceptable for a person to type their name into the signature box as a form of signature. Therefore, I am satisfied that the N12 notice was signed, pursuant to s. 43(1)(c) of the Act. The Tenants' request was therefore denied.

Amended Closing Date & New N12 Notice

6. The Tenants' Legal Representative also requested that since the Landlord and Purchaser amended and extended the completion date of the APS, a new N12 Notice was required to be served, rendering the original N12 notice defective, and the application consequently being dismissed. Given that there was no fundamental change to the parties or terms of the agreement (the composition of the property remained the same), I am not satisfied that a new N12 notice was required. An amendment to an agreement does not constitute an entirely new agreement. The Tenants' request was therefore denied.

L2 Application:

1. As explained below, the Landlord has not proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the application is dismissed.
2. On December 8, 2023, the Landlord gave the Tenants an N12 notice of termination deemed served December 13, 2023 with the termination date of February 29, 2024. The notice was given on behalf of the Purchaser who claims that they require vacant possession of the rental unit for the purpose of his own residential occupation.
3. The Tenants were in possession of the rental unit when the application was filed on December 15, 2023.
4. The residential complex is described as a detached bungalow containing one rental unit on the main floor and a second separate rental unit in the basement. The upper unit has four bedrooms and two bathrooms. The basement unit has two bedrooms and one bathroom. Each unit has its own kitchen.
5. The Landlord has compensated the Tenants an amount equal to one month's rent by February 29, 2024. The Landlord provided the Tenants with a cheque for \$1,650.00 on February 5, 2024, and the Tenants confirmed they cashed the cheque.
6. The Landlord testified that he sold the property because he is 75 years old and wishes to no longer be a landlord. He does not want to pay for the mortgage on the property or the utilities anymore. He intends to gradually sell his three other properties and live off the proceeds. The Landlord testified he also no longer wanted to deal with the ongoing issues

between the upstairs and basement tenants. The two units were constantly in conflict over the utilities, particularly heating and air conditioning usage and payments. The Tenants would complain to the Landlord, and he would have to speak with the upstairs tenants on numerous occasions to try and resolve the issue. The Tenants do not dispute having a history of issues with the upstairs tenants. However, their grievances also extend to the Landlord not acting upon their complaints within a reasonable time and resulting in delayed periods of insufficient heat in the winter and excessive heat in the summer.

7. Though the Landlord could not remember the exact date, he did not dispute that the property was taken off the market on November 29, 2023. The Landlord also acknowledged that there were not many showings for the property, and he received one offer which was below what he wanted. The property ended up being sold privately to the Purchaser, and the Landlord has already deposited the Purchaser's \$10,000.00 deposit cheque. The Landlord maintained that the Purchaser is not an employee of his, though the Purchaser has been contracted to perform some repairs to the residential complex. The Landlord reiterated his frustration in having to amend the Agreement of Purchase and Sale ('APS') at least five times due to these proceedings and is extremely concerned the Purchaser will cancel the agreement due to the ongoing delay. The Landlord is also losing income as the upstairs tenants have vacated the unit for months now and the unit sits vacant waiting for this matter to resolve.
8. A signed copy of the initial APS was submitted showing the residential complex was sold to the Purchaser on November 29, 2023 for \$940,000.00 with a completion date of March 4, 2024 and a \$10,000.00 deposit. Schedule A of the APS states that the Landlord agrees to give vacant possession of the unit, and the Purchaser does not assume the tenants at the completion of the agreement. The APS was subsequently amended due to the LTB proceedings to extend the completion date on four occasions with the most recent completion date being July 15, 2025.
9. The Landlord did not dispute that he would have preferred to sell the property vacant and confirmed that the upstairs tenants were also served with an N12 notice after the basement Tenants received theirs. The upstairs tenants vacated the unit in July 2024 in accordance with a prior Board order evicting the tenants for non-payment of rent (LTB-L-006933-24). The Landlord testified that the upstairs tenants told him on numerous occasions that they would move out on their own accord because of the rent arrears, but they would need time. The Landlord wanted to avoid additional Board proceedings but ended up serving the upstairs tenants with an N12 notice because they did not show signs of following through with their promise to vacate. However, the Landlord later testified that he did not serve both units at the same time because he wanted the tenants to leave one-by-one.
10. The Tenants challenged the Landlord's explanation, reiterating that the upstairs tenants owed a significant amount of arrears, which was not disputed by the Landlord. Therefore, it does not stand to reason that the Landlord would be willing to delay any termination date for the upstairs tenants and incur further arrears if the Landlord wished to hand over vacant possession to the Purchaser in a timely manner. In fact, the Landlord would only stand to delay vacant possession further by spreading out the termination dates in the N12 notices for the two units.

11. The Landlord confirmed the Tenants told him they contacted the City of Brampton before December 2023 regarding issues with the utilities. However, he maintained that the Tenants often hindered the Landlord's attempts to conduct any repairs to the unit and were over-reliant on him to solve any and all issues with the unit at their convenience. The Tenant, Julia Wooder ('JW'), testified that the issue was not about convenience but rather the Landlord's lack of response that would often require numerous follow-ups by the Tenants before they had to resort to contacting the city.
12. The Tenants maintained the N12 notice was not served in good faith, and the Purchaser does not have a genuine intention to move into the unit. The Landlord just wants to evict the Tenants because he perceives them as problematic and got his friend to help him by making it appear that he will purchase the property to move in. The Tenants have complained to the Landlord about numerous issues aside from the utility grievances with the upstairs tenants, including mold in the furnace room, the washer and dryer not being re-connected after they were moved to replace the hot water tank, and holes in furnace room wall leading to the kitchen. Many of these grievances either remain unresolved or they allege took an unreasonable time to fix. The Tenants believe the Landlord was essentially delaying repairs or dealing with any complaints because he wants them to leave. To illustrate this point, the Tenants submitted two exhibits, "A9" and "A10", showing an expanded text message sent by the Landlord to JW after the N12 notice was served regarding the upstairs tenants leaving the window open, which was reducing the heat in the unit. The text message reads: "Will check and let you know. As you mentioned homeowners are not for your convenience only it should be two way. The homeowner requested you to move out but you wanted to stay. You may have to go through all this till you decide."
13. The Purchaser testified that he has been friends with the Landlord for over 20 years. He purchased the residential complex so that he, his wife, and their 34-year-old daughter can live there. He has no intentions of renting the property, which is why he seeks vacant possession. The location of the property is convenient for him since his relatives are close by as is his other property. He was also already thinking of downsizing to a smaller home when the Landlord told him about selling the residential complex. On cross-examination, the Purchaser reiterated that he wants to help his friend, which is why he has agreed to push back the completion date so many times, but he is becoming frustrated at having to wait so long. The Purchaser further testified that he is aware that the property requires renovation, but he is experienced with home repair and is willing to do the work himself.
14. The Tenants questioned the credibility of the Purchaser's evidence due to some inconsistencies. The N12 notices served to both rental units list only the Purchaser as the intended occupant and not his family. The Purchaser clarified on cross-examination that it is not certain if his daughter will move in, but if she does, she will likely reside in the basement unit. If she does not, the Purchaser will likely use that space for storage, which is also why the declaration he signed on January 25, 2024 states that he intends to occupy only the upstairs unit. However, the declaration he signed on December 15, 2023 does not specify a rental unit but rather the entire residential complex.
15. The Purchaser did not dispute that a similar property in the same neighbourhood sold for less, but he has already paid a \$10,000.00 deposit and gave the Landlord his word he would buy the property. The Purchaser confirmed that he owns other properties, but those

are already tenanted, and he does not need to sell his current home. Once he takes possession of the residential complex, he might sell his other home. The Purchaser testified that there is no urgency for him to occupy the property, but the sooner the better as he has waited long enough.

16. On cross-examination of the Purchaser, the Tenants submitted a video taken by them on April 2, 2024, where the Purchaser attends the rental unit to fix the water heater that had broken down the day before. The video is taken after both rental units were served with their respective N12 notices. The Tenant, Michael Cabral ('MC'), filmed the video, and in it proceeds to ask the Purchaser about his plans for the property. The following can be heard in video:

MC: Are you planning on living in the basement and renting out the upstairs?

Purchaser: I'm not renting, I have my own house.

...

MC: You're buying this house?

Purchaser: I don't know.

...

MC: Are you going to rent out the upstairs when you buy it?

Purchaser: I'm not sure.

...

MC: You're buying the house, right?

Purchaser: Maybe. I'm not sure yet.

17. The Purchaser's reply testimony was that he was not comfortable essentially speaking to strangers and did not have to explain himself to anyone.

Analysis:

18. Under s. 49 of the Act, the Landlord must prove on a balance of probabilities that:

1. the residential complex contains three or fewer units.
2. the Landlord has entered into an agreement of purchase and sale of the residential complex.
3. the purchaser in good faith requires possession of the rental unit for the purpose of their own residential occupation.

19. The first part of the test is met. The residential complex contains fewer than three units.

20. The second part of the test is also met. The Landlord and Purchaser signed the APS on November 29, 2023, and have subsequently amended the agreement four times to extend the completion date.

21. The issue here is with the third part of the test. As stated in the case of *Elkins v. Van Wissen*, 2023 ONCA 789, the vendor landlord's conduct is linked to the purchaser's good faith. Section 49(1) of the Act permits the vendor landlord to, on behalf of the purchaser, give the tenant a termination notice so long as the purchaser, in good faith, requires possession of the rental unit for the purpose of residential occupation. In this case, I'm not satisfied the purchaser genuinely intends to occupy the rental unit for himself.

22. I acknowledge the Landlord no longer wishes to remain a landlord and decided to sell the residential complex to his friend of over 20 years through a private sale. There is nothing inherently improper about a landlord selling their property privately, nor is there anything wrong with a landlord no longer wishing to remain a landlord. This was kept in mind when I considered that the Purchaser paid the Landlord a nominal deposit of approximately 1% of the purchase price, and the upper tenants' circumstances related to unpaid rent and the timing of their N12 Notice. I also considered the fact that the purchase was not an arm's length transaction given the long personal relationship between the Purchaser and the Landlord.
23. What I found to be the seminal issue here, however, was the testimony of the Purchaser. The Purchaser testified that he intends to complete the purchase of the residential complex and move in with his wife, and possibly daughter. However, the Purchaser's testimony was uncorroborated by any plan or confirmation, because at the hearing he indicated he did not know whether his daughter would be moving in. By the time the Purchaser testified at the hearing on June 17, 2025, over 16 months had passed since the Tenants were served the N12 notice, and the Purchaser was still uncertain regarding who would occupy the unit. The N12 notice also makes no reference to his spouse moving into the unit, nor was there a declaration from the Purchaser's spouse or child, which further exemplifies that his plans have not solidified.
24. The agreement seems rooted under the premise that the purchaser is buying the unit to assist the Landlord as a friend which raises the possibility of alternative motives. Although the Landlord suggests there is urgency for the Tenants to move out so that the unit can be sold, there is nothing to stop the transaction from closing or explain why the APS was amended four times after the N12 notice was given, especially since the Purchaser stated he does not have plans for his current residence, he does not need to move in immediately, and the upper unit of the residential complex is now vacant.
25. I also considered the video taken on April 2, 2024, where the Purchaser can be heard at least twice saying he was not certain if he would in fact be buying the property. The Purchaser's reply testimony provided no explanation other than he did not like being filmed and did not feel he had to explain himself to strangers, which I do not find to be reasonable. By telling the Tenant he might not go through with the purchase on April 2, 2024, only 33 days after the termination date on the N12 notice, the Purchaser's statements fly contrary to the notion he genuinely requires the rental unit for his personal residential occupation. N12 notices of termination under s. 49 of the Act are not for circumstances where it is likely the buyer will purchase the house, but for instances where it is certain the purchase will close on vacant possession. Consequently, I am not prepared to terminate the tenancy when the Purchaser's evidence suggests that the intention to occupy has not been firmly formed. The application is therefore dismissed.

It is ordered that:

1. The application is dismissed.
2. The Tenants are to return to the Landlord the \$1,650.00 compensation payment provided to them with respect to this application on or before April 7, 2026.

3. If the Tenants do not return the compensation, they will owe interest on the amount. This will be simple interest calculated from April 8, 2026 at 4.00% annually on the balance outstanding.

March 27, 2026
Date Issued

Fotoula Hatzantonis
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.